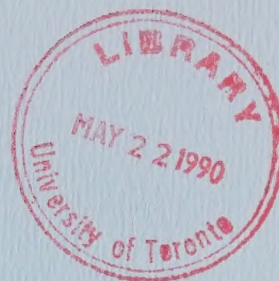


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ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 201

DATE: Thursday, May 10, 1990

BEFORE:

A. KOVEN, Chairman

E. MARTEL, Member

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the
Honourable Jim Bradley, Minister of the
Environment, requiring the Environmental
Assessment Board to hold a hearing with
respect to a Class Environmental
Assessment (No. NR-AA-30) of an
undertaking by the Ministry of Natural
Resources for the activity of timber
management on Crown Lands in Ontario.


Hearing held at the Environmental Assessment
Board Offices, Suite 1201, 2300 Yonge Street,
Toronto, Ontario, on Thursday, May 10th, 1990,
commencing at 8:30 a.m.

VOLUME 201

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member



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MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION

I N D E X O F P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>JAMES WADDELL,</u> <u>MALCOLM SQUIRES</u> <u>JAMES RODERICK GEMMELL,</u> <u>MURRAY FERGUSON,</u> <u>PETER MITCHELL MURRAY,</u> <u>BRIAN NICKS, Resumed</u>	35550
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I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1156	Document entitled: The Influence of Clearcut Size on the Frequency and Growth of Jack Pine Regeneration by B.D. Nicks.	35682
1157	Table entitled: Breakdown of Natural Regeneration Methods outlined in Table 3, page 124, OFIA Panel 8 Statement of Evidence.	35687

1 ---Upon commencing at 8:35 a.m.

2 MADAM CHAIR: Good morning. Please be
3 seated.

4 Good morning, Mr. Hanna.

5 MR. HANNA: Good morning, Madam Chair,
6 Mr. Martel.

7 MADAM CHAIR: Are you ready to begin your
8 cross-examination?

9 MR. HANNA: I am indeed, yes.

10 MR. WADDELL: Madam Chair?

11 MADAM CHAIR: Yes, Mr. Waddell?

12 MR. WADDELL: Before Mr. Hanna begins his
13 cross-examination, may I speak to the Board.

14 Yesterday I did an undertaking or I was
15 asked to do an undertaking by Ms. Swenarchuk on an
16 issue and I would like to report to the Board on that
17 at this time if I may.

18 MADAM CHAIR: Please proceed, Mr.
19 Waddell.

20 MR. HUFF: Ms. Swenarchuk will be here
21 later this morning, that's is a more convenient time
22 when she's here.

23 MADAM CHAIR: Why don't we wait until Ms.
24 Swenarchuk is here, Mr. Waddell.

25 MR. WADDELL: Fine.

1 MADAM CHAIR: Thank you, Mr. Waddell.

2 MR. HANNA: Madam Chair, in my
3 cross-examination I am trying to abide by the
4 chronology of the witness statement and I will be
5 following through the witness statement. The only
6 exhibit that I will be referring to outside of the
7 witness statement will be Exhibit 16 which is the
8 Baskerville audit.

9 MS. CRONK: I have to alert the Board in
10 that regard that Mr. Hanna told me this morning when I
11 arrived that he would be referring to that and I didn't
12 know that previously and I don't have it here and the
13 witnesses don't have it here, to my knowledge - I stand
14 to be corrected - that's the Baskerville audit, so we
15 have a little bit of difficulty, but we'll see how it
16 goes.

17 MADAM CHAIR: All right.

18 MR. HANNA: Madam Chair, I appreciate the
19 difficulty I have put Ms. Cronk in. I, however, had
20 felt that it would probably be here because it is
21 directly referenced in the witness statement, in fact
22 there is a whole section of the witness statement
23 dealing with a matter that is dealt with in
24 Baskerville's audit and I apologize for any
25 difficulties that has caused, but it was inadvertent.

1 JAMES WADDELL,
2 MALCOLM SQUIRES
3 JAMES RODERICK GEMMELL,
4 MURRAY FERGUSON,
5 PETER MITCHELL MURRAY,
6 BRIAN NICKS, Resumed

7 CROSS-EXAMINATION BY MR. HANNA:

8 Q. I would like to begin with Section 2
9 and I believe, Mr. Waddell, that is a section that you
10 have responsibility for?

11 MR. WADDELL: A. One moment, please.
12 Yes, I do.

13 Q. On page 32, the second paragraph
14 under Section 2.1 indicates that the purpose of renewal
15 is to introduce a preference for certain kinds of
16 trees; is that correct?

17 A. That's correct.

18 Q. And it is indicated that this
19 preference is decided on by informed management of the
20 timber resource; correct?

21 A. That's correct.

22 Q. Does one need to consider more than
23 the timber resource when prescribing renewal
24 activities?

25 A. Yes.

 Q. Can you tell me what other factors
 need to be considered other than the timber resource?

1 A. Well, I think that when we are
2 prescribing the renewal treatment we are cognizant of
3 the impact that our renewal treatment will have on all
4 values in the area be they tourism, wildlife,
5 aesthetics, whatever, and this normally occurs of
6 course at the management planning stage.

7 Q. Would you agree that virtually all
8 forest-based activities are impacted to one extent or
9 another by the temporal and spacial structure of the
10 forest, and is not that controlled to a large extent by
11 renewal activities?

12 A. Would you repeat that again, Mr.
13 Hanna, please?

14 Q. Certainly. Would you agree that all
15 forest-based activities are impacted to one extent or
16 another by the temporal and spacial structure of the
17 forest, and is not that controlled to a large extent by
18 renewal activities?

19 A. It is certainly influenced by renewal
20 activities. I am not sure I would entirely agree with
21 your word control. Certainly influenced and to a more
22 or less extent, yes.

23 Q. And would you agree that that
24 influence can be quite significant in some
25 circumstances -- in many circumstances?

1 A. Are we speaking again of the renewal
2 component?

3 Q. Well, I appreciate your witness
4 statement and perhaps I will just step back for a
5 moment from this.

6 I appreciate the view that the Industry
7 has brought forward that harvesting and renewal are
8 highly integrated, but this panel is dealing with
9 renewal and so I am focussing on the renewal component
10 of it particularly.

11 And my point is: Renewal activities in
12 themselves have the potential to control or to
13 significantly influence the temporal and spacial
14 structure of the forest. Would you agree with that?

15 A. Among other things. The renewal
16 activities themselves are just one component that
17 influence the factors you mentioned. There are natural
18 disturbances such as insects, fire, wind, all -- man,
19 that have nothing to do with renewal activities that
20 strongly influence the forest itself.

21 Q. But of those factors that we have
22 control over, renewal is a significant influence on the
23 temporal and spacial structure of the forest; is it
24 not?

25 A. Yes.

1 Q. On page 32 in the second paragraph
2 there it indicates that the purpose of renewal is to
3 introduce a preference for certain kinds of trees or
4 species that are more useful and greater benefit. Do
5 you see that?

6 A. No, I don't. On page 32?

7 Q. Yes.

8 MR. NICKS: A. Page 33.

9 MR. WADDELL: A. Page 33.

10 Q. Excuse me, my reference is incorrect.
11 I stand corrected. Thank you. It's on page 33.

12 A. Yes, I see it.

13 Q. This statement, however, does not say
14 for the benefit of whom and what those benefits might
15 be. Could you clarify this sentence for me?

16 A. Again, I go back to the timber
17 management planning process and I think it is at that
18 stage that the decisions are made. After the proper
19 amount of public input, the decisions are made as to
20 what areas of the forest essentially are going to be
21 allocated for what purposes, and the areas of the
22 forest are going to be allocated primarily for timber
23 production purposes. We then undertake to manage those
24 forests in a manner that will produce as good a crop on
25 those areas as possible.

1 In the other areas where tourism or
2 wildlife or any other type of value is judged to be
3 paramount or of more importance, then at that time
4 decisions are made as to how those areas will be
5 managed. That is how I would interpret that section.

6 Q. When you say other areas may be
7 managed for other purposes, are you suggesting that in
8 those cases then that we would introduce a preference
9 for certain kinds of trees or species that are more
10 useful and greater benefit for those other uses; is
11 that the interpretation I should take from that
12 sentence then?

13 A. That is a possibility. It certainly
14 isn't done to any extent in Ontario at the present
15 time, but what I was really thinking of is, in the
16 areas where the other uses are judged to have the
17 higher priority, in many cases there is no harvesting
18 carried out, it's not permitted, so the ability to
19 introduce other species is not there.

20 It's only through forest management
21 starting with the timber harvest process that you have
22 that opportunity to introduce other species.

23 I am thinking of reserves, for example,
24 where no harvesting is permitted. There is no feasible
25 way of introducing other species into those areas

1 because your mature timber is still there.

2 Q. Now, in terms of those areas that you
3 refer to as being allocated primarily for timber
4 production purposes, are we referring there to what is
5 termed in the timber management planning process at the
6 present time as normal operating areas?

7 A. Yes, I am.

8 Q. And you are saying that in normal
9 operating areas that the introduction of a preference
10 for certain kinds of trees or species that are more
11 useful and greater benefit to the timber industry; is
12 that your interpretation of that?

13 A. That's my interpretation of it, yes.

14 Q. Do you see any potential in those
15 areas of - particularly for the sort of things you
16 listed; aesthetics, wildlife - of considering in the
17 introduction of certain trees and species benefits in
18 addition to timber?

19 A. Repeat, please, Mr. Hanna?

20 Q. In those normal operating areas do
21 you see the need during the -- as part of the
22 consideration of the preference for certain kinds of
23 trees or species, that benefits in addition to timber
24 are taken into consideration?

25 A. Now, I am confused because I thought

1 in the first question you asked me: Do I see the
2 possibility of introducing those species, and I
3 interpret your second question now as being: Do I see
4 the need. That is two different things, correct me if
5 I -- would you ask me again?

6 Q. You remember my words better than I
7 do.

8 A. Would you ask me the question again,
9 please, so I can try to give you an answer.

10 Q. Now, you've got me really stumped
11 because you'll probably get a clearer version of it at
12 this point.

13 A. That is the one I will try and
14 answer.

15 MS. CRONK: Give it to him.

16 MR. HANNA: Q. All right. What I am
17 getting at is this: You have indicated here that in
18 normal operating areas you see those as being primarily
19 allocated for timber production purposes?

20 MR. WADDELL: A. Yes, I do.

21 Q. And therefore, during the
22 consideration of the preference for certain kinds of
23 trees or species that are more useful and greater
24 benefit, you are speaking there in terms of timber
25 production?

1 A. That's my impression, yes.

2 Q. Now, I am asking you: In those
3 areas, is there also room or do you see a need for
4 consideration of other benefits in the selection and
5 preference of species, and other benefits I am
6 thinking of some of the ones that you referred to,
7 wildlife and aesthetics?

8 A. I would not rule that possibility
9 out, that there may be in certain situations, it may be
10 desirable to consider in certain situations what you
11 are suggesting; that is, that planting of species other
12 than the traditional softwood species that the Industry
13 desires for its mills. I think that would have to be
14 evaluated on a site-specific basis. I would not rule
15 that possibility out.

16 Not being a biologist or having any
17 particular expertise in that field, I don't feel
18 qualified to answer that question on a wide-scale
19 basis. But let me say, I would see that as possibly --
20 I would see it as a potential situation on a
21 site-specific basis where the parties involved felt
22 that it was appropriate.

23 Q. And in that case you are speaking
24 both as an employee of E.B. Eddy and as a
25 representative of the forest industry?

1 A. I am speaking primarily as a
2 representative of the OFIA. If you are talking on our
3 case study, then I will speak as an employee of E.B.
4 Eddy.

5 Q. No, I was asking you more generally,
6 so I prefer to have you speak in terms of the Industry.

7 Looking now on page 33 at the conclusion
8 which is in italics, you indicate there that it is the
9 Industry's position that the fundamental objective of
10 renewal is achievement of a supply of quality raw
11 material to Industry's mills.

12 And I am focusing here on the words the
13 fundamental objective and I am interested in knowing
14 why you use the word the fundamental objective rather
15 than a fundamental objective?

16 A. Well, if we go back to the purpose of
17 the undertaking, the purpose of the undertaking as it's
18 defined in the EA Manual, according to my
19 interpretation, is that the purpose of the undertaking
20 is to provide to the mills -- or to provide a
21 predictable and continuous supply of forest products -
22 I am interpreting a little at liberty here, I can't
23 remember the exact words - but that is what the purpose
24 of the undertaking is.

25 So we are saying that the fundamental

1 objective of timber management in the area of the
2 undertaking is to achieve a predictable and continuous
3 current and future supply of raw material.

4 Q. Now, when I read that I interpreted
5 that as saying that because renewal is part of the
6 timber management, that the fundamental objective of
7 renewal is the achievement of a predictable and
8 continuous current and future supply of quality raw
9 materials. Is that a fair interpretation of that?

10 A. That is how I would interpret it.
11 Again, remembering that we are carrying out a renewal
12 program in the normal operating areas which are the
13 ones primarily dedicated to the production of timber.
14 That is where the great percentage of the renewal
15 operations of course are carried out:

16 Q. No, I appreciate that. And perhaps
17 this goes to a central concern of my client and; that
18 is, this sentence, and when you put in renewal in this
19 context, it suggests to me that timber management
20 should be conducted using a single objective management
21 philosophy rather than a multiple objective management
22 philosophy as advocated by Dr. Baskerville and my
23 client. Is that a fair interpretation of that
24 statement?

25 A. No, I don't think it is, because you

1 have put the word renewal in there, and this says the
2 fundamental objective of proper timber management.
3 And timber management of course involves components
4 other than just renewal and it is saying, in the area
5 of the undertaking, which covers both the areas of
6 concern, the reserves and the normal operating areas.

7 And obviously, in the area of the
8 undertaking and the reserves that is not the
9 fundamental purpose, to provide a predictable and
10 continuous supply of wood from those areas. That may
11 be an objective, but it certainly isn't a fundamental
12 one.

13 Q. So should we change this to say that
14 the fundamental objective of timber management in the
15 area of the undertaking and normal operating areas?

16 A. Well, I don't think that I am at
17 liberty to change anything in this witness statement,
18 Mr. Hanna.

19 Q. You are fully at liberty, Mr.
20 Waddell, I can assure you. You are here to give
21 evidence to this Board and they want to hear your
22 opinion.

23 Is that a better interpretation, a better
24 statement as to what your view is?

25 A. Yes, that is what my view is and I

1 think that is entirely compatible with the purpose of
2 this undertaking.

3 Q. I am not quarrelling with that at the
4 moment. Now, dealing strictly with normal operating
5 areas, is it not true that there may well be objectives
6 for other uses other than timber that will be realized
7 for normal operating areas?

8 A. Yes, I would think so.

9 Q. But these are not fundamental
10 objectives, these are secondary objectives in your
11 view?

12 A. Those are objectives that will be
13 accommodated through the normal planning process, yes.

14 Q. So they are secondary, and that is
15 why you have used the fundamental objective rather than
16 a fundamental objective in this statement?

17 A. Well, as I say, in my opinion the
18 fundamental objective of the areas of normal operations
19 is to produce a continuous and predictable supply of
20 wood. There are other objectives, secondary objectives
21 that can be accommodated within the framework of those
22 operations and they are every day.

23 Because that is the fundamental objective
24 it's not mutually exclusive. There are many multiple
25 use things that go on across our operations that are

1 outside of the areas of concern and reserves, as you
2 are well aware.

3 Q. Yes, I appreciate that, and I am not
4 suggesting in any way that your company is in any way
5 not conscious of that, it's simply the matter, if you
6 will, of priorities, and I interpret what you are
7 saying as that you see the primary priority being the
8 supply of wood and other factors being secondary
9 priorities in normal operating areas?

10 A. I don't think, as I say, that the two
11 are at odds in any way.

12 Q. That shall be dealt with at another
13 time.

14 A. The great majority of hunting, for
15 example, goes on in the areas of normal operations;
16 it's not done in areas of concern or reserves, it is in
17 the harvested and regenerated areas.

18 Q. And likewise, the majority of, for
19 example, the moose that is produced is produced from
20 the normal operating areas and not areas of concern?

21 A. Well, I don't know about the produced
22 part, you mean --

23 Q. Well, let's say where they are
24 harvested?

25 A. Where they are born and die or shot?

1 Q. Harvested is the euphamism that is
2 used.

3 A. I would think so.

4 Q. Mr. Murray, I would like to turn to
5 page 45. I believe you are responsible for Section 4;
6 is that correct?

7 MR. MURRAY: A. Sections of it.

8 Q. Sections of it. And dealing with the
9 last section, are you responsible for that?

10 A. No, I was not responsible for the
11 last section, Mr. Gemmell and Mr. Waddell.

12 MR. GEMMELL: A. What page?

13 Q. Page 45.

14 MR. WADDELL: A. That is my section,
15 sir.

16 Q. I apologize.

17 A. If you are starting on --

18 MR. HANNA: Q. I had in my witness
19 statement on page 7 that Peter Mitchell Murray will
20 attend the hearing and give evidence in respect of
21 Section 4?

22 MR. MURRAY: A. I presented the position
23 statement of the Industry and dealt briefly with the
24 requirements, the importance of the Crown management
25 units and the renewal, the Industry's concern about

1 Crown management units and the renewal thereof.

2 MR. WADDELL: A. I picked it up again
3 midway through page 41 where the Ministry's terms and
4 conditions start, the last paragraph.

5 Q. So on page 6, under--

6 A. Page 6?

7 Q. --under the responsibilities for you,
8 Mr. Waddell, I should add there Section 4?

9 MS. CRONK: Well, Madam Chair, Mr. Hanna
10 can add whatever he wants in the executive summary. If
11 he had been here for the evidence-in-chief he would
12 know.

13 I don't think anything turns on this, but
14 it may assist him for the balance of the morning.
15 Matters dealing with terms and conditions posed by the
16 MNR were dealt with on this panel by Mr. Waddell, and
17 wherever they are sprinkled throughout as being
18 relevant to the subject matter in particular sections
19 he dealt with it in that context and another witness
20 dealt with the balance of the section.

21 MR. HANNA: Well, I don't believe this
22 has to do with terms and conditions, but that is fine.
23 I don't mind speaking to Mr. Waddell on it.

24 Q. Mr. Waddell, can you turn to page 45,
25 please.

1 MR. WADDELL: A. Yes.

2 Q. At the top of the page, the first
3 full sentence there, you indicate that it's the
4 Industry's position that the sufficient planning and
5 operational flexibility should be maintained. I gather
6 this is with respect to renewal treatments?

7 MS. CRONK: It's with respect to the
8 context at the bottom of page 44, Madam Chair, which
9 refers to MNR's term and condition No. 11.

10 MR. HANNA: Which refers to renewal
11 treatments, I believe.

12 MR. WADDELL: It refers not only to
13 renewal treatments, it refers to the silvicultural
14 system and logging method to be used, optional renewal
15 treatments including the preferred methods of site
16 preparation and regeneration, regeneration stocking
17 standards and projected tending requirements.

18 I am reading from the page 42 at the top,
19 term and condition No. 11.

20 MR. HANNA: Q. Yes, but the paragraph
21 that this is part of refers simply to optional renewal
22 treatments as shown on the bottom page 44 and continues
23 over to page 45, and that is what I am dealing with.

24 I don't disagree, nothing turns on it,
25 Mr. Waddell, I was just referring to what is here in

1 your witness statement.

2 This is the same theme that we've heard
3 in discussions in previous panels of the Industry; is
4 that correct, this need for sufficient planning and
5 operational flexibility?

6 MR. WADDELL: A. I would assume so.

7 Q. And the second last sentence
8 indicates that the groundrules with respect to renewal
9 treatments should not result in detailed restrictive
10 definitions of the type of equipment and renewal
11 methods; correct?

12 A. Yes, it is.

13 Q. Would you agree that a way to
14 maintain the operational flexibility being requested by
15 the forest industry and yet to ensure that the public
16 concerns regarding protection of the environment be
17 recognized, would be to establish specific
18 environmental objectives for areas proposed to be
19 subjected to renewal?

20 A. I don't understand what you mean by
21 specific environmental objectives.

22 Q. For example, would one possibility be
23 to establish maximum soil compaction limits for various
24 site types rather than prescribe specific equipment?

25 A. No, I wouldn't agree with that. I

1 think that - and this has been the theme of this panel
2 all the way through our evidence and through our case
3 studies - we have trained professional foresters, both
4 on the Crown units and on the FMAs who are experienced
5 and capable and knowledgeable and they are the ones
6 that should be permitted to make the site-specific
7 decisions, and our overriding concern here is that to
8 have these mandated in a form of a cookbook, as Dr.
9 Baskerville refers to, will tie our hands and will
10 severely limit the ability of the unit manager to make
11 the proper decision.

12 And no, I cannot agree with you at all
13 on that, Mr. Hanna.

14 Q. There's two types of cookbooks; is
15 there not, Mr. Waddell? One says specifically what you
16 have to do on the land base, and I believe that is my
17 interpretation of what Dr. Baskerville is referring to,
18 it says: This is how you renew trees, you have to go
19 out and shear blade, you have to chemical prepare with
20 pycloram or whatever, and you have to plant at this
21 spacing of one plus black spruce.

22 That would be a cookbook and that would
23 give you no ability to use your professional
24 interpretation; is that not correct?

25 A. I would think that's a reasonable

1 statement.

2 Q. And you wouldn't want to see that;
3 would you?

4 A. Absolutely not.

5 Q. But by the same token there are
6 concerns that the public has, since it's their land, in
7 terms of ensuring that there is proper management,
8 there is a balance; correct?

9 A. I am sure the public has concerns
10 about how their land is managed, yes.

11 Q. And so there is this balance of
12 allowing you to practice your profession in the most
13 efficient and effective way you can, and yet at the
14 same time protecting the public interest, the public
15 concern in the management of the land; do you see that?

16 A. Sure.

17 Q. And what I am asking you is: How can
18 the public -- let me turn that around. My
19 understanding of one of the ways that Dr. Baskerville
20 suggests to deal with that dichotomy, if you will, is
21 to have the public say: This is what we want from the
22 land base and then turn it over to those people who are
23 familiar with the land base who have that professional
24 knowledge and experience and say: You produce that for
25 us, and hence the objectives being set then, the

1 forester is working within those objectives.

2 Is that your concept of Dr. Baskerville's
3 thesis?

4 MS. CRONK: I am sorry, Madam Chair. If
5 Mr. Hanna is going to put a proposition that he says
6 derives from Dean Baskerville to these witnesses, he's
7 obliged to put it to them in a way that they can review
8 it and not suggest that that is Dean Baskerville's
9 position.

10 You can't put an expert's opinion for
11 commentary to a witness in the way that Mr. Hanna has
12 just done. If he's referring to a document or previous
13 evidence in this hearing or the expression of a
14 management approach by Dean Baskerville, he's obliged
15 to put it to the witnesses in full detail and then ask
16 whether they agree or disagree.

17 MADAM CHAIR: Mr. Hanna, will you be
18 having -- do you intend to go through the Baskerville
19 report with a number of specific references to what
20 Dean Baskerville's said?

21 MR. HANNA: No, in fact I wasn't
22 intending to do that, Madam Chair. I was only going to
23 refer to the one section that this panel has referred
24 to in their witness statement.

25 Perhaps I assumed too much. I thought

1 that what I was saying was fairly well understood in
2 terms of Dean Baskerville's approach to timber
3 management or forest management. I am somewhat at a
4 loss with Ms. Cronk's interjection.

5 MADAM CHAIR: Where are you referring to
6 Dean Baskerville's comments in this witness statement?

7 MR. HANNA: Oh, I am sorry, Madam Chair,
8 that is in Section 9. If you look on -- it's on page
9 135 in the footnote. There is reference there to the
10 audit, but that section of the audit that is referred
11 to there deals solely with the substance of Section 9
12 which is the new timber production policy.

13 I wasn't planning on going through the
14 audit in terms of a number of other statements that
15 Dean Baskerville has brought forward. I certainly can
16 take the time and draw that out. It wasn't my
17 intention, and I thought this would be a fairly
18 straightforward matter, but...

19 MS. CRONK: I don't want to complicate
20 things, Madam Chair, perhaps I can clarify the legal
21 objection that I'm concerned -- that I am expressing.

22 The question came to the witnesses on
23 this basis. Mr. Hanna said - and it was pretty close
24 to this, it may not be verbatim - I understand, Mr.
25 Hanna understands that Dean Baskerville's approach is

1 this, do you agree that that is the Baskerville
2 approach. And what I am saying is, I am not at all
3 sure I agree that that is Dean Baskerville's approach
4 based on the evidence that we have heard.

5 But leaving that aside, the witnesses are
6 entitled to know where that is deriving from if he's
7 going to put it to them that way. The other way to do
8 it, to move things along - if you will permit me, Mr.
9 Hanna - is to simply say: What is your view of this
10 proposition, just put it to them that way and don't
11 characterize it as someone's evidence and unless you
12 can prove that it is.

13 MR. HANNA: I am happy to proceed on the
14 latter course.

15 MADAM CHAIR: All right. Thank you, Mr.
16 Hanna.

17 MR. MARTEL: Can I get a clarification,
18 from you, Mr. Hanna? I think you said the public
19 should establish the objectives and the Industry would
20 then set about to achieve those objectives.

21 Where do you draw the line? Are you
22 talking about environmental objectives here, or are you
23 talking about all objectives including production
24 policy and so on? I'm just not clear what you mean.

25 MR. HANNA: Actually, I am going to get

1 to the latter matter, Mr. Martel, before my
2 cross-examination is finished. The question that I
3 just put to Mr. Waddell was dealing primarily with I
4 think what you would call environmental objectives. So
5 I was looking at this concept of having non-timber
6 objectives setting a framework within which acceptable
7 timber management could take place. That's the context
8 in which I --

9 MR. MARTEL: All right, fine.

10 MR. HANNA: Q. Mr. Waddell, saving me
11 having to try and remember my words again, have you got
12 a concept of what I said and with accepting that it's
13 not necessarily a true rendition of Dr. Baskerville's
14 words, are you familiar with that general concept of
15 forest management?

16 MR. WADDELL: A. Mr. Hanna, if you can't
17 remember your words I can't remember them either.

18 Q. That's a fair statement, Mr. Waddell.

19 We had talked about the cookbook
20 difficulty I presented to you as a forester and as an
21 Industry representative. And I had looked it from the
22 alternate approach which was to say: Well, don't tie
23 the forester's hands, don't tell the forester what he
24 has to do on a specific piece of land; instead, say
25 what forest-based benefits we want to achieve from that

1 land base. Do you see that as an alternate way of
2 going?

3 A. Well, I believe that is what this
4 hearing is all about and with a new timber production
5 policy, which the public will have input into the
6 making of it, it is my understanding that the public,
7 the Ministry and the Industry will have input into
8 formulating that type of objective.

9 Q. Mr. Waddell, excuse me for
10 interrupting, but I am not dealing with the timber
11 production policy now in any way whatsoever. We will
12 be dealing with that, but I am not dealing with that
13 right at the moment.

14 Remember back what we were talking about,
15 we were talking about -- I put a proposition to you
16 that one way of dealing with site degradation would be
17 a set of environmental objectives such as soil
18 compaction limits. You said you wouldn't agree with
19 that, that you saw that as a cookbook approach and that
20 that would tie your hands unnecessarily; correct?

21 A. That's correct.

22 Q. Now, I am dealing with that problem:
23 How do we come to grips with allowing you to perform
24 your profession and yet to ensure that the public
25 wishes are protected?

1 MS. CRONK: Well, surely, Madam Chair --
2 I am sorry, but surely, Madam Chair, that is a planning
3 issue and if he wants Mr. Waddell's personal opinion
4 based on 30 years experience I am not going to object
5 to that, but the general areas of the planning issue
6 you are going to hear at length from the Industry's
7 planning witnesses.

8 I've got some problems as to how useful
9 this is going to be. At the end of the day you have to
10 assess the value of the opinions you receive, as to
11 whether they are related to and come from people whose
12 training permits them to give you an informed insight
13 from that, and I am not suggesting that this panel
14 can't, but it -- firstly, these aren't planning
15 experts, is my point.

16 MADAM CHAIR: Thank you, Ms. Cronk.

17 I think, Mr. Hanna, it would interest the
18 Board, and what you are exploring right now is the
19 flexibility issue which Mr. Waddell has spent a great
20 deal of time giving evidence on how, much flexibility
21 does the Industry need and to those subject matters as
22 renewal.

23 So I think if we could keep our questions
24 to exploring with Mr. Waddell what amount of
25 flexibility and can he put any bound on that

1 flexibility in terms of renewal issues, I think that
2 would be keeping us on subject.

3 MR. HANNA: Well, Madam Chair, I
4 appreciate your assistance there. I was however, at
5 least I thought I was, dealing specifically with that
6 subject. I did tie it specifically to the witness
7 statement and the statement that was made on page 45
8 that dealt specifically with restrictive definitions of
9 types of equipment.

10 Perhaps I can ask the witness, why would
11 he see the potential of having restrictive types of
12 equipment? I had assumed that one of the reasons was,
13 was potential for site degradation, and I am now trying
14 to explore with him, with some difficulty, an alternate
15 way of dealing with it, without just saying do what you
16 want. And that is the whole point of my questioning.

17 I appreciate what Ms. Cronk has said. It
18 sort of harkens back to blockbuster II in my view. We
19 had blockbuster I, which is Panel 15 of the Ministry's
20 case; we have now got blockbuster II which is Panel 10
21 of the Industry's case.

22 I already said to Mr. Cassidy when I
23 cross-examined on Panel 6 that I would attempt - and I
24 have in this cross-examination - attempt to defer as
25 much as possible planning issues to that panel, but I

1 still have to deal with the words that are before me,
2 and I have here a very specific statement in terms of
3 desiring flexibility and I have to explore with this
4 witness what that means and how that can be dealt with
5 other than what he has suggested he doesn't want to see
6 and, that is, tying the Industry's hands and saying
7 specifically what has to be done on a specific site.

8 That's my purpose. I certainly
9 appreciate Ms. Cronk's direction that we should deal
10 with planning issues in Panel 10 and I have every
11 intention of doing that, but I have to deal with these
12 statements that are made in this witness statement.

13 MADAM CHAIR: Let's proceed, Mr. Hanna,
14 with the flexibility issue, specifically the renewal
15 matters.

16 MR. HANNA: Q. Perhaps, Mr. Waddell, I
17 can ask you this way: You have indicated that you do
18 not want to see detailed restrictive definitions of the
19 types of equipment and renewal methods.

20 MR. WADDELL: A. That is correct.

21 Q. Can you tell me how you see
22 protecting the public interest, providing the public
23 with adequate assurance and knowledge that their land
24 will be protected and yet that it will not
25 unnecessarily restrict you in your ability to conduct

1 your practice?

2 A. The manner in which we do and will
3 carry out our renewal operations - and that is strictly
4 all I am talking about here is renewal operations - the
5 manner in which, as I say we have in the past and
6 continue to do so, carry out renewal operations is
7 specified or the options are specified in the
8 silvicultural prescriptions of each FMA -- each FMA's
9 groundrules.

10 Those are a part of the timber management
11 plan now. The entire timber management planning
12 process is open to the public and, as you are aware,
13 there is presently four stages at least of formal
14 opportunity for the public to input into the timber
15 management plan. The public has the opportunity at
16 each of those four stages to add their input, add their
17 concerns which the Ministry and the Industry must
18 consider. They even have the opportunity for bump-up
19 if they are not satisfied before our plan is approved.
20 So that is the first way, they have that existing to
21 them now.

22 Secondly, if the -- and this will come in
23 our Panel 10. The Industry's proposed terms and
24 conditions dealing with the planning aspect will
25 provide more opportunities for the public to deal with

1 all aspects of the forest management operations
2 including a provincial committee, a regional committee
3 and a local committee made up of concerned citizens at
4 all levels.

5 I feel that this is a very appropriate
6 mechanism for the public to have input at those various
7 stages to express their concerns and to be heard, and
8 the final decision will be made by the appropriate
9 people at that time and if, after all that, it's judged
10 that on a specific site we need to have some type of
11 restriction put on us, then so be it.

12 But I do believe that that process is
13 going to provide ample opportunity for your concerns.

14 Q. We will deal with that in Panel 10,
15 and I can tell you that my client is encouraged by what
16 the forest industry is moving towards. But my question
17 is this, we have here a statement that says:

18 "The groundrules with respect to renewal
19 treatments should not result in detailed
20 restrictive definitions of the type of
21 equipment and renewal methods."

22 And I want to just focus on renewal. We
23 will talk about planning and public consultation
24 process and all that sort of thing in Panel 10. I want
25 to deal specifically with renewal, and I want to be

1 able to take an example and say that I, as a member of
2 the public, have a concern in terms of soil compaction.
3 And you are telling me, don't specify the type of
4 equipment that I should use, that will unduly tie my
5 hands.

6 A. That is what I am saying.

7 Q. And I accept that. And I am now
8 asking you: What is the alternative? How do I deal
9 with that concern, how do I prescribe that, provide
10 some sort of boundary that I can be assured that that
11 concern will be dealt with -- not the process how we
12 are going to get there, but what that will be, what
13 will it look like?

14 A. Well, I am afraid I have to go back
15 to the statements that I have already made, that that's
16 part of the planning process at which any citizen can
17 express their concerns, and we are suggesting that the
18 opportunities for doing so will be much greater in the
19 future.

20 Q. Mr. Waddell, I don't mean to
21 interrupt you and be unfair to you, but I just -- I
22 don't think -- maybe I am not being clear in what I am
23 saying.

24 I understand the process side of it and
25 that will be dealt with in Panel 10. What I am asking

1 you now is: Picture that we have gone through the
2 process, how physically -- what's the words look like
3 that would provide you with the flexibility that you
4 need and the assurance that I want as a member of the
5 public in terms of soil compaction and that the
6 appropriate equipment will be used or range of
7 equipment will be used and that those concerns will not
8 be violated? What does it look like?

9 A. I can't tell you what it looks like,
10 sir, but I can tell you that from the start of the FMAs
11 the basic concept was, Industry would be judged on its
12 results and not monitored at every step of the way.

13 And I think that that should still be the
14 objective that we are talking about here. I think that
15 you must give the professional forester the flexibility
16 to manage on the site as he sees fit, then judge it.

17 The Ministry in their terms and
18 conditions have proposed numerous and many different
19 types of operational audits, assessments, if you will.

20 Q. Again, can we just --

21 MS. CRONK: I am sorry.

22 MR. WADDELL: Can I finish, Mr. Hanna?

23 MS. CRONK: I am sorry, Mr. Martel, Madam
24 Chair. Mr. Hanna has asked this question about four
25 times now. He may not like the answer he's getting,

1 but the answer is entitled to be given once the
2 question is asked.

3 MADAM CHAIR: I think we have Mr.
4 Waddell's answer now, Mr. Hanna.

5 MR. HANNA: I think he had something to
6 add, and I am quite prepared to hear the end of it.

7 MR. WADDELL: Well, what I was going to
8 say, sir, was that the Ministry in one of their terms
9 and conditions has proposed an area inspection on a
10 regular basis. This is done by Ministry staff, and I
11 would think that at that time that is one of the things
12 that they would be looking for, environmental damage of
13 any kind be it soil compaction, be it cutting too close
14 to or impacting on reserves, erosion, any of those
15 types of concerns.

16 It's their responsibility to note that,
17 and if the Industry is not doing a satisfactory job,
18 then they I am sure will take the appropriate action.

19 MR. HANNA: Q. Okay. Two questions out
20 of that. You did give me the kind of answer I wanted,
21 not necessarily that I wanted from a strategic point of
22 view, but you at least responded to what I was asking
23 and that was, you said: Judge the Industry by its
24 results not by how it gets there?

25 MR. WADDELL: A. Exactly.

1 Q. And you also said that the area
2 inspections, through that process the Ministry will go
3 out and see if there is soil compaction, among other
4 things, but soil compaction is one of them?

5 A. Yes.

6 Q. Is soil compaction something you can
7 see?

8 A. In my opinion it certainly is. I
9 mean, you know beforehand which sites are the most
10 vulnerable to soil compactions, obviously you would
11 concentrate your efforts in those areas.

12 On a dry sandflat, for example, you don't
13 have soil compaction; on your lowland sites, it's a
14 real concern and the Industry has adjusted its type of
15 equipment on those sites to minimize soil compaction.

16 But that is the kind of an area where you
17 would concentrate your area inspections, where you know
18 the possibility of soil compaction is the highest, just
19 to use one example.

20 MR. MARTEL: Could I have a clarification
21 again. Are you suggesting, Mr. Hanna, that what you
22 want is some body that establishes a whole set of
23 objectives including soil compaction or any host of
24 ideas and that how would Industry operate within the
25 framework of all of those objectives?

1 MR. HANNA: The host hasn't been defined
2 yet, Mr. Martel, but the basic concept --

3 MR. MARTEL: A whole series of items such
4 as compaction just being one of them, that somebody
5 establishes those objectives and then Industry is
6 allowed to operate within those objectives in their own
7 manner?

8 MR. HANNA: That is the basic concept,
9 Mr. Martel. Obviously the fine line is how many
10 objectives and that you define the objectives in such a
11 way that there is, if you will, a feasible range within
12 which you can operate. That is the argument, and I
13 don't disagree that that is a difficult thing to do.

14 The question is: Does that provide both
15 the flexibility that the Industry is asking and also
16 the assurance that the public is asking for in terms of
17 management of the land, and we will deal with that at
18 the appropriate time.

19 MS. CRONK: Well, if that is where we are
20 going, Mr. Martel, Madam Chair, in that context I now
21 have a better understanding of what Mr. Hanna's
22 question has been pointing to, surely the way to do it
23 is to put a specific objective to these witnesses so
24 they can comment on whether that does provide the
25 degree of flexibility and satisfaction of the public

1 interest that Mr. Hanna is speaking of. They have got
2 to know what that something is to opine on, they have
3 got to know what it is that he has in mind. It's being
4 dealt with at a pretty abstract level.

5 MR. HANNA: Some people opine better in
6 the abstract, but I will try and put it in something
7 very specific for Mr. Waddell.

8 Q. Mr. Waddell, are you familiar with
9 the system used in New Brunswick -- or excuse me, in
10 Newfoundland to prescribe maximum bulk densities of
11 soils and bearing pressures of equipment on soils as a
12 means to control soil compaction impacts?

13 MR. WADDELL: A. No, I'm sorry, I'm not.

14 Q. Are you familiar with any system that
15 is used to establish standards or objectives within
16 which timber management must take place?

17 A. That is a very broad question.

18 Q. You didn't know the specifics, so I
19 am now leaving it open to you to tell me if there is
20 any situation where you are aware of that that's been
21 done?

22 A. Was the question related to soil
23 compaction?

24 Q. Certainly.

25 A. I have to answer no, I am not

1 qualified to give any opinion on that. I know they
2 exist, but I don't know enough about them to speak with
3 any familiarity on them.

4 Q. Can anyone else on the panel wish to
5 offer an opinion on that? (no response)

6 MADAM CHAIR: We heard yesterday from Mr.
7 Squires that he had had some experience in
8 Newfoundland, but I have no idea if he's familiar with
9 the soil compaction.

10 MR. HANNA: Perhaps just as a point of
11 order here, any of the other panel members that wish to
12 interject, at your leisure when you want to interject,
13 I am happy for your opinion so please interject.

14 Q. Mr. Ferguson, I would like to turn to
15 Section 5, if I could please, particularly page 51. I
16 believe this is the section you are responsible for,
17 Section 5.1.1?

18 MR. FERGUSON: A. Yes, I have presented
19 oral evidence on this section.

20 Q. I would like to look at the bottom of
21 page 51 and the statement that says:

22 "The purpose of the groundrules is to
23 provide guidelines, options and standards
24 for the management practiced and
25 treatments."

1 I understand here standards would be such
2 things as stocking limits; is that correct?

3 A. Yes, that's correct.

4 Q. Carrying on from the discussion I
5 just had with Mr. Waddell and this concept of
6 flexibility in planning and operational activities, why
7 is it necessary to have standards? Doesn't that tie
8 the Industry's hands in some way, you have to meet some
9 minimum limit; it doesn't allow a full discretion to
10 the forester; does it?

11 A. I believe standards are necessary in
12 that if we are to be accountable in any way there must
13 be some standard against which we are measured.

14 Q. Would you not agree, however, that
15 standards such as this do, to a certain extent, reduce
16 the flexibility and discretion available to Industry
17 foresters? You don't have the discretion to not stock
18 certain lands; do you?

19 A. I would say generally that is true.
20 There is the possibility on certain lands which by
21 agreement between the FMA holder and the Ministry may
22 be classified as untreatable, however, it's my
23 understanding even there there are some minimum
24 stocking levels which are expected to be achieved over
25 time.

1 Q. Now, by having things such as
2 stocking standards - let's just take normal areas,
3 let's leave away the untreatable lands for the present
4 time - does that not in a way limit the flexibility of
5 the forester in terms of how he manages the land and
6 yet it doesn't prescribe specifically what he has to
7 do. Is it not a way of avoiding tying your hands and
8 yet providing some boundaries within which you operate?

9 A. I am not sure I understand the
10 question.

11 Q. Well, I don't -- back to the example
12 I gave Mr. Waddell. The FMA agreements don't say you
13 must shear blade, chemical site prepare and plant to a
14 certain spacing with a certain planting stock every
15 time; does it?

16 A. That's correct.

17 Q. It says, you have to meet a certain
18 stocking standard, how you do that is your business;
19 correct?

20 A. That's correct as well.

21 Q. So it provides you the opportunity to
22 use your expertise as a professional forester within
23 certain limits?

24 A. That's correct.

25 Q. Is this not similar to the principles

1 established by Dr. Baskerville in terms of setting
2 objectives?

3 MS. CRONK: Again, Madam Chair --

4 MR. HANNA: Well, if we have to I will go
5 to Exhibit 16 and pull out the script and verse that
6 says, Dr. Baskerville says there should be objectives
7 set for forest management, if that is Ms. Cronk's
8 concern.

9 MS. CRONK: That is not my concern, Madam
10 Chair. He put a specific proposition that the question
11 suggested derived from Dean Baskerville and, if that is
12 the case, the witness has the right, as does the Board
13 and parties, to know precisely what it is that he's
14 characterizing as being Dean Baskerville's proposition.
15 Otherwise he can put it in the abstract. It's the same
16 objection I earlier made.

17 MADAM CHAIR: We heard this through -- in
18 the last two years on almost every witness panel this
19 has come up, that the witnesses must have a document in
20 front of them and must be able to see what was said if
21 they are asked a question about the words of someone
22 else.

23 The way of getting around that is, we
24 could give the witness the document and a minute to
25 look at that, or you could rephrase the question.

1 MR. HANNA: In the interest of time I
2 will rephrase the question, Madam Chair.

3 MADAM CHAIR: Thanks, Mr. Hanna. When we
4 have a break, we could give a copy of the Baskerville
5 report to the witness.

6 MR. HANNA: I will just in the future not
7 make specific reference to Dr. Baskerville. I am not
8 intending to make specific references to the report
9 and, again, I thought this was fairly well understood
10 by this panel and by people coming to this hearing, but
11 if it isn't, and I am not properly characterizing it,
12 that's fine.

13 I would have thought the witnesses would
14 be able to say you are not properly characterizing Dr.
15 Baskerville's views.

16 MS. CRONK: That may well be, Madam
17 Chair, and it maybe that I have some passing
18 understanding of Dean Baskerville's report as well.

19 But all I am saying is, if he's going to
20 be putting it forward as a proposition that derives
21 from an authority like Dean Baskerville's, there is a
22 legal obligation to say: This is what that expert
23 said, do you agree or disagree, is that your view, have
24 I characterized it correctly. That is the proper way
25 to deal with that.

1 MR. HANNA: Q. Mr. Ferguson, do you see
2 the setting of objectives in terms of stocking being a
3 means to provide sufficient direction to Industry
4 foresters and yet not unduly restrict them in terms of
5 the carrying out of their profession?

6 MR. FERGUSON: A. Yes, I do.

7 Q. Mr. Nicks, I would like to turn to
8 page 89, and perhaps Mr. Waddell I will ask you to jump
9 in here where it's appropriate.

10 Point 4 there deals with free to grow
11 submissions and, as the Board has heard, free to grow
12 is an expression describing stands which meet stocking
13 height and height growth rate criteria; correct?

14 MR. NICKS: A. That's correct.

15 Q. Would you agree that free to grow is
16 most commonly defined by stocking and height criteria
17 as opposed to stocking and height growth criteria?

18 A. It's defined generally, to my
19 knowledge, by the use of all three criteria plus the
20 fourth criteria of essential freedom from competition,
21 however, there may be some exceptions where, according
22 to the wording here, where height growth alone and not
23 total height is the requirement.

24 But in my experience, certainly on our
25 - FMAs the requirement is for both a minimum height and a

1 height growth rate.

2 Q. Is a minimum height growth rate the
3 experience of the other members of the panel for the
4 FMAs that they are familiar with?

5 I will go through the panel one by one
6 because I would like to get the answer from each of
7 you.

8 Mr. Ferguson?

9 MR. FERGUSON: A. I would agree with Mr.
10 Nicks that all four criteria would be required in my
11 experience to achieve free to grow status.

12 Q. Mr. Gemmell?

13 MR. GEMMELL: A. I agree with Mr. Nicks
14 that it's the four criteria that is our objective for
15 free to grow.

16 Q. I am asking -- be very specific and
17 be very clear about the question I am asking here,
18 panel. What I am asking is: Are there specific height
19 growth rate criteria in the free to grow assessment
20 standards that you must meet.

21 That is the question and I want to make
22 sure everyone responds in terms of the FMAs that they
23 are familiar with.

24 Now, Mr. Gemmell, do you have those and
25 can you provide those to me?

1 MR. GEMMELL: A. The height growth --
2 the statement height growth I would say has to be in
3 terms of height growth outcompeting the competition,
4 that is the height growth I am referring to.

5 Q. Just a second. We had four criteria,
6 we had height growth and we had competition, that is
7 Mr. Nicks' words I believe.

8 MR. GEMMELL: A. That's correct.

9 Q. Now, I just want to make sure I
10 understand the difference between --

11 A. I want to make sure I understand what
12 you mean by height growth also.

13 Q. Well, these are your words. I am
14 happy to -- I don't know what you mean by height
15 growth.

16 Mr. Nicks, maybe you could tell us what
17 you mean by height growth so we don't all get confused.

18 MR. NICKS: A. I certainly can. I think
19 the specifications are outlined very clearly in the
20 timber management planning manual by species, and
21 height growth refers to the total height requirement,
22 the height growth rate refers to current annual height
23 increment which must be observed in the year of the
24 free to grow survey.

25 Q. You wouldn't happen to have that

1 reference to where in the timber management planning
2 manual. Perhaps over the break or whatever if you are
3 familiar with it, I would appreciate that reference.

4 A. Yes, I believe I can find that, Mr.
5 Hanna.

6 Q. Okay. So now we have heard Mr.
7 Nicks' interpretation of the increment, the height
8 growth increment, and he's saying that's the height
9 growth increment in the year of free to grow
10 assessment; correct?

11 MR. NICKS: A. That's my understanding,
12 yes.

13 Q. Now, I would want to ask each of you
14 if you have those -- if you're familiar with those
15 being used in your FMA agreements and the timber
16 management that you are practising on your forest
17 management units.

18 I will try again with you, Mr. Ferguson?

19 MR. FERGUSON: A. Again, I am a little
20 confused by the question. I am not sure exactly what
21 it is you are asking me.

22 Q. Are there specific height growth as
23 defined by Mr. Nicks criteria in your timber management
24 plan and/or your FMA considered?

25 MR. WADDELL: A. If I could interject,

1 sir. Mr. Nicks' evidence was that it's in the timber
2 management manual, not -- and if the question is
3 related to his FMA or his timber management plan, it's
4 in neither; if it's in anywhere it's in the timber
5 management manual itself.

6 And I would also remind -- I would like
7 to say that it is the Ministry of Natural Resources
8 that carries out the free to grow surveys, not the
9 forest management agreement holder.

10 Q. I didn't in any way infer who was
11 carrying it out, Mr. Waddell, but I appreciate that
12 clarification. I also heard Mr. Nicks say that it was
13 in the timber management planning manual, but that is
14 not my question. My question is: Do timber management
15 plans or FMAs have specific height growth increment
16 criteria in them?

17 A. No, they do not.

18 Q. Yours don't.

19 Mr. Ferguson?

20 MR. FERGUSON: A. To the best of my
21 knowledge, no, I don't believe they do.

22 MR. GEMMELL: A. No, they don't.

23 Q. Mr. Murray?

24 MR. MURRAY: A. You defined the
25 parameters as being an FMA, I have no connection with

1 an FMA.

2 Q. Okay. On Crown management units?

3 A. I am not familiar with the Crown
4 management units.

5 Q. Having height growth?

6 A. I can't speak for it.

7 Q. Mr. Squires?

8 MR. SQUIRES: A. No, we do not.

9 Q. Mr. Waddell, there is just one point
10 I left there when I was discussing with you earlier the
11 matter of soil compaction, and I had asked you if you
12 can see soil compaction and I believe you indicated
13 yes.

14 MR. WADDELL: A. I think you can see the
15 obvious soil compaction in terms of rutting.

16 Q. That is soil -- that may be
17 terminology here, let's be clear, and I don't call
18 rutting soil compaction, okay.

19 I am talking when I say soil compaction
20 being the reduction or increase -- excuse me, the
21 increase in bulk density of the soil, without
22 disturbance necessarily of the soil profile, but an
23 increase in the bulk density of the soil as a result of
24 equipment pressure on the ground.

25 Now, is it your view that that is readily

1 visible in the field?

2 A. Well, I would certainly think if
3 there were serious situations it would be obvious.

4 Q. What is serious?

5 A. I am not a soil expert, sir, and I
6 can't answer that question.

7 Q. Anyone else -- or, Mr. Squires, you
8 were the one that was referred to as having some
9 knowledge in this.

10 MR. SQUIRES: A. I was referred to being
11 from Newfoundland.

12 Q. Oh, I am sorry, I apologize, I got
13 your references mixed up there. Who is the expert on
14 the panel, or is there an expert on the panel that can
15 speak to me at all about soil compaction?

16 MS. CRONK: There is no expert on this
17 panel, Madam Chair, in soils analysis or soil
18 compaction rates with that scientific background, that
19 I'm aware of.

20 MR. WADDELL: May I now answer your
21 question posed a few moments ago on free to grow?

22 MR. HANNA: Q. Certainly.

23 MR. WADDELL: A. We have found it. It is
24 on page 198 of the timber management planning manual,
25 the free to grow standards are listed.

1 Q. Excuse me, just slowly if you will.

2 A. Sorry. Page 198 of the manual, free
3 to grow standards are listed there by white spruce,
4 black spruce, jack pine. It shows a minimum, that each
5 species must reach a minimum total height; for example,
6 white spruce must be one metre in height.

7 It shows that the minimum current height
8 growth must be 20 centimetres and the minimum previous
9 year's height growth must be 157 centimetres, and it
10 estimates a probable age at which each species may
11 attain free to grow standards.

12 And those are the standards that we
13 put -- those are the standards that we look for when we
14 apply to the Ministry of Natural Resources to carry out
15 free to grow surveys on any specific area and those are
16 the same for every FMA.

17 Q. Now, this may seem like a rather
18 trivial question, Mr. Waddell, but would you agree with
19 me that the growth of a tree is -- in particular, let's
20 say white spruce, is highly dependent on the
21 characteristics of the site?

22 A. Certainly, among other factors such
23 as quality of nursery stock, quality of planting.

24 Q. I wasn't suggesting exclusively.

25 A. Okay.

1 Q. And would you agree with me that
2 there is a great variation in site types across the
3 area of the undertaking?

4 A. Certainly.

5 Q. And therefore -- or perhaps I will
6 ask you this: These free to grow standards that you
7 have referred me to on page 198, they are not connected
8 in any way to site type; are they?

9 A. That's correct.

10 Q. What sort of a range would you expect
11 in terms of these criteria, presuming that you use the
12 same planting stock but you used your best professional
13 judgment and practice to match the stock to the site
14 and did all the right site preparation and whatever,
15 what variation in growth would you expect here?

16 Taking the least productive site and the
17 most productive site, what sort of a range in those
18 parameters would you expect, plus or minus 50 per cent,
19 a hundred per cent?

20 A. It probably varies by species.

21 Q. Let's just deal with white spruce.

22 A. Can I deal with jack pine?

23 Q. Okay.

24 A. I would say conservatively a third.

25 Q. Who is responsible for Section 5.1.2

1 on page 52?

2 A. What page, sir?

3 Q. I am not trying to pick on you, Mr.
4 Waddell, I am just going by section.

5 A. There will be a break soon, I think.
6 What page, Mr. Hanna?

7 Q. Page 52.

8 MR. FERGUSON: A. You are looking at the
9 section on annual work schedules?

10 Q. Yes.

11 A. And that is the section which I
12 presented evidence on.

13 Q. You are relieved for the moment, Mr.
14 Waddell.

15 Mr. Ferguson, I am looking there in the
16 first paragraph under Section 5.1.2 and the fourth
17 sentence reads:

18 "Prescriptions to be applied to each area
19 are determined by the company through
20 ground inspections conducted both before
21 and after harvesting."

22 Do you see that?

23 A. Yes, I do.

24 Q. Why do you not obtain -- excuse me, a
25 moment I will try it again. Can we turn to page 56

1 now - I am going to come back to 52, so keep your
2 finger there - and under the second indented paragraph
3 there entitled Site Characteristics, nine factors are
4 listed with respect to site characteristics. Do you
5 see those?

6 A. You are talking to the indented
7 paragraphs continuing on through page 57 and 58?

8 Q. Yes, correct. And I am looking at
9 the one that is numbered 2?

10 A. Yes, okay, I have it.

11 Q. And there is nine factors listed
12 there they aren't itemized but there's soil texture,
13 moisture regime, drainage, et cetera.

14 A. Yes, I see it.

15 Q. And I presume these are the types of
16 factors that you would want to examine in your ground
17 inspections; is that correct?

18 A. Can you just give me a moment,
19 please, to refresh my memory.

20 Q. Sure.

21 A. Yes, I would say that they would all
22 be considered.

23 Q. Are there other factors that you
24 would want that would be obtained specifically through
25 the ground inspections? I am dealing specifically with

1 the ground inspections now. I want to know what it is
2 that you need to do the ground inspections for?

3 A. Yes, there would be other factors
4 which would be considered during the ground inspection.
5 The initial ground inspection, which would occur prior
6 to the harvest, would of course consider such things as
7 the species present on the site prior to harvest,
8 evaluate the species that would be left following
9 harvest, this type of thing, residual vegetation that
10 may be there.

11 The post-harvest inspection would
12 consider such things as the degree of slash that was
13 left on the site, for instance.

14 Q. It's important that I have a fairly
15 exhaustive list. So are there other factors other than
16 those site characteristics then, the degree of slash,
17 that require ground inspection?

18 A. I would suggest that would be
19 probably the main one, in addition to those items that
20 are listed on page 56, yes. There may be others, they
21 don't immediately come to mind.

22 Q. If they do come to mind some time
23 before I leave, I would appreciate --

24 A. Yes, I will get back to you.

25 Q. Of the nine site characteristics that

1 are shown on page 56, can you tell me which cannot be
2 interpreted from, for example, air photos?

3 A. I would have to go through them one
4 by one, and I would suggest that it may be difficult to
5 establish soil texture -- actually, I would have to say
6 that probably all of them couldn't be ascertained with
7 any degree of certainty from aerial photographs.

8 Q. So what you are saying is you could
9 interpret them, in fact they are interpreted on a
10 regular basis, but you couldn't be certain of them?

11 A. That's correct, yes.

12 Q. And likewise, in terms of species
13 present, that also can be interpreted from air photos
14 but not with the same level of certainty; is that
15 correct?

16 A. I would suggest that depending on the
17 skill of the interpreter you may in fact be able to get
18 a better indication of a species than you would from a
19 ground inspection simply because ground inspection you
20 are limited to what you can see on either side of you
21 as you walk through the forest and the aerial view, be
22 it from photographs or from perhaps a helicopter
23 flight, would give you a more general overview and may
24 give you the opportunity to see something you would
25 miss on a ground survey.

1 Q. Now, I am interested to know why you
2 don't rely on, for example, existing information, local
3 knowledge, professional experience in developing the
4 background information you need to come to
5 prescriptions in terms of renewal?

6 Why wouldn't you rely on that, why would
7 you go out and do a ground inspection?

8 A. Well, sites vary considerably from
9 one location to the next and we certainly do rely on
10 our local knowledge, however, due to the variability
11 over very short distances in some cases I think it is
12 important that this be tempered with ground surveys as
13 well.

14 Q. So to be of adequate certainty as to
15 what the ground actually looks like?

16 A. That's correct, yes.

17 MR. HANNA: Madam Chair, I am not too
18 sure what time you plan to take a break. I expect I
19 will probably run over lunch, about an hour after lunch
20 in my cross-examination looking at where I am at the
21 present time.

22 I don't know what your normal schedule
23 is. I am about to move into a new topic. I can
24 continue if you wish, or if you want to take a break
25 now.

1 MADAM CHAIR: We are in the habit, Mr.
2 Hanna, of scheduling a break at ten after ten.

3 MR. HANNA: Okay.

4 ---Discussion off the record

5 MADAM CHAIR: We will take our break at
6 ten after ten.

7 MR. HANNA: Thank you.

8 Q. Panel, I am going to ask you who I
9 should direct questions to in terms of mechanical site
10 preparation?

11 MR. NICKS: A. I delivered the oral
12 evidence on that section.

13 Q. Mr. Nicks. Is it your view that
14 mechanical site preparation, depending upon its
15 intensity, alters the soil characteristics of the site,
16 it changes the soil profile and changes the site from
17 that point of view?

18 A. I would say the potential exists,
19 yes.

20 Q. In fact is that not often an
21 objective of mechanical site preparation, to expose the
22 mineral soil?

23 A. It certainly is.

24 Q. And one of the reasons that you do
25 this is to alter sites such that the growth and

1 dominance of commercial softwoods preferred, that is
2 the objective; is it not?

3 A. That's correct.

4 MR. HANNA: Madam Chair, we have heard
5 passing reference throughout the hearing to various
6 systems that the Ministry of Natural Resources is
7 involved in, with respect, and they are called the
8 forest ecosystem classification systems.

9 I don't believe that they have been
10 entered into evidence, in fact I think they have just
11 recently been issued. There has been reference to it
12 in past evidence I know. I am not at this time
13 planning on entering it as an exhibit.

14 I have the two here for the northwest
15 Ontario. They have, as I say, just recently been
16 issued, they are a Ministry document. I certainly
17 don't have enough at this time to distribute to the
18 parties.

19 I am not planning on quoting directly
20 from them. If the witnesses want, I will certainly
21 offer them my copy of it. I think they are familiar
22 with --

23 MADAM CHAIR: We have received something
24 that was submitted as an exhibit much earlier on and I
25 don't know if it was a draft or --

1 MR. FREIDIN: It was the forest ecosystem
2 classification for the Clay Belt.

3 MADAM CHAIR: For the Clay Belt.

4 MR. FREIDIN: It was introduced in
5 panel - it was earlier, I can't remember - Panel 6 I
6 believe -- the harvest panel.

7 MR. HANNA: Panel 10.

8 MR. FREIDIN: It's there anyway. I don't
9 have my exhibit list with me.

10 MR. HANNA: Okay, that's fine.

11 The one I have here is northwestern
12 Ontario system. It doesn't really make -- not a lot
13 turns on whether I deal with northwest or the Clay
14 Belt. There is also I believe ones for other areas of
15 the province, but we may want to have this introduced
16 at some point, and if that arises, I will be asking you
17 to reserve an exhibit number for this and I will speak
18 to the Ministry and get copies for the parties.

19 Q. Mr. Nicks, or other members of the
20 panel, are you familiar with the forest ecosystem
21 classification systems that have been developed for
22 northwestern Ontario, northcentral Ontario, for the
23 Clay Belt and for parts of the Algonquin Region?

24 MR. NICKS: A. I can answer that. I
25 have general familiarity with the Algonquin Region and

1 the Clay Belt, although as you would note in my resume,
2 I don't have experience working in the Clay Belt, Mr.
3 Gemmell is much more familiar with the Clay Belt.

4 And as for the other two guides, I have
5 merely glanced at them and perhaps Mr. Squires can help
6 you out with those guides.

7 Q. All right. Mr. Squires, perhaps I
8 will ask you the questions. Are you familiar with the
9 one for northwestern Ontario?

10 MR. SQUIRES: A. Familiar in a general
11 sense in that it's a fairly recent publication. It
12 only became available to me about two weeks ago,
13 however, I have been with the formulation of that from
14 the beginning and I have taken the veg forth.

15 Q. And when I get to something you are
16 not familiar with, let me know and I will try to deal
17 with that accordingly.

18 MR. FREIDIN: You said the veg?

19 MR. SQUIRES: Veg, meaning vegetation.

20 MR. HANNA: Q. Okay. With respect to
21 the northwestern Ontario system, can you just
22 briefly -- just briefly summarize how it's structured
23 and how the system is developed, the basis for it?

24 I don't want a long-winded discussion,
25 just so the Board can get a general appreciation of

1 what it is and how it was structured.

2 MR. SQUIRES: A. The Board will
3 appreciate I just got the final version in the past
4 couple of weeks, considerable changes have been made I
5 understand and I can't speak to those changes.

6 The general structure as it started out
7 in draft form was relative to vegetation
8 classification, soils classification and soils
9 classification being broken between three general types
10 of soil conditions.

11 The ecological classifications then are
12 set up around vegetation and soil combined. Is that?

13 Q. Excellent. And so would it be fair
14 to characterize it as a way to systematically organize
15 the, if you will, biological diversity within that area
16 of northwestern Ontario in terms of vegetation
17 communities?

18 A. It is a reflection of the diversity
19 that exists in the natural forest. That is the best
20 way I could describe it.

21 Q. Now, by altering the soil
22 characteristics of the site through mechanical site
23 preparation, could that potentially change the forest
24 ecosystem classification for a site through modifying,
25 for example, the vegetation community?

1 A. Well, I would like to pre-qualify the
2 remark I will make here, that I have not yet taken the
3 soils course aspect of the ecological classification.
4 With that condition, would you now rephrase the
5 question for me, please?

6 Q. Sure. Is it possible that by
7 altering the site characteristics, particularly the
8 soils, through mechanical site preparation that that
9 could potentially change the forest ecosystem
10 classification for a site through, for example,
11 changing vegetation structure?

12 A. In the sense that any site will
13 change with time regardless of any disturbance, I think
14 yes, it would alter it and that would happen in nature.

15 Q. Right. But the forest ecosystem
16 classification system, as I understand it, is based
17 upon a recurrent cycle of natural disturbance and,
18 hence, it's only based upon the natural stand; is that
19 not correct?

20 A. It's based upon natural stands and my
21 understanding of it, as I have qualified incomplete at
22 this stage, is that it's focused at one point in time.

23 Q. The mature forest.

24 A. That is correct.

25 Q. And is it not possible that by

1 altering the origins of the stand prior to getting to
2 the mature state that the final mature state that it
3 comes in to may be significantly different than what it
4 was prior to that disturbance; i.e., mechanical site
5 preparation?

6 A. Well, I would give an example I guess
7 in answering your question there. If I were to scarify
8 for natural regeneration or seeding of a particular
9 species, the scarification could alter the microsite at
10 the soil surface to make it more advantageous to a
11 particular species; i.e., jack pine, some type as that.

12 Q. And that is in fact what we see often
13 in timber management plans where we will have, for
14 example, a mixed wood site and the working group is
15 changed to or the dominance of the site is changed to a
16 more conifer-dominated site. That is an example of
17 what you are describing; is it not?

18 A. You could say that that is an
19 example, but I would say that that example occurs
20 naturally as well, it's not something that is
21 necessarily induced by site preparation.

22 Q. But it can be induced by site
23 preparation?

24 A. Yes, it can be.

25 Q. Now, is not the tendency of

1 mechanical site preparation and in fact other site
2 preparation techniques for timber production purposes
3 to alter the frequency and distribution of forest
4 ecosystem units in favour of those producing the
5 greatest softwood volumes?

6 A. Your understanding and mine of the
7 forest ecosystem units appear to be somewhat different.
8 The forest ecosystem units, as I described, are a one
9 shot in time. There is not necessarily any
10 implications intended in that system, if I understand
11 it, to suggest that that is what should be there at all
12 time.

13 Q. No, I wasn't in any way suggesting
14 that at all to you. What I am simply saying, and I
15 will repeat it, is not the tendency of mechanical site
16 preparation and of other site preparation techniques
17 for timber production purposes to alter the frequency
18 and distribution of forest ecosystem units in favour of
19 those producing the greatest softwood volumes; you are
20 consciously trying to produce stands with high softwood
21 volumes?

22 A. I will go to the Spruce River Forest,
23 specifically our case study 4C which you may or may not
24 be familiar with. In that case through site
25 preparation we did alter a current stand condition

1 which the people who have been here over the last few
2 days have understood that was different at another
3 point in time from what currently existed at the time
4 we did our site presentation.

5 So in the context of that case study,
6 yes, we did intentionally carry out site preparation
7 with the intent of regenerating another species from
8 that which was currently on the site. In that sense,
9 we did alter the course of the forest ecological
10 classification for that particular site.

11 Q. So if in the mature state, which is
12 what the system currently deals with, it doesn't deal
13 with any of the successional states after that; is that
14 correct?

15 A. That is correct.

16 Q. Dealing with that, looking at that
17 mature state of that stand that you have referred to,
18 when we came in to that mature state and superimposed
19 on it the classification system, it would come out as
20 different unit, if things go accordingly?

21 A. Not necessarily.

22 Q. But it could?

23 A. And again I think I am starting to
24 push the limits of my understanding of the system at my
25 current state of education.

1 Q. But it could?

2 A. I would have to say I can't
3 confidently answer that question. Rephrase it and I
4 will try again.

5 Q. Perhaps it's better to leave it for
6 now. I ask this question again to all of the panel
7 members and; that is: Do you normally keep track of
8 the forest ecosystem units that the stands in your FMA
9 relate to?

10 Perhaps, Mr. Squires, I will start with
11 you, you are the most familiar with it, and we will
12 give the others a chance to think.

13 A. Being that it's a new system, I don't
14 think anybody has really done any classification on a
15 spacial basis with it. There may be, but if there is I
16 am not familiar.

17 Our own company has recently made some
18 attempts at it, but we need field work. And what we
19 have been trying to do is do some photointerpretation
20 and field work to see how good we have been at that.
21 Our belief is that we will not have been very good
22 because of our incomplete understanding at this stage.

23 Q. But even given you've got incomplete
24 understanding and it's a new system, you are moving in
25 that direction, you see a need to move in that

1 direction?

2 A. I see a need to move in the direction
3 of a more complete understanding of the land base
4 resource that we are working with, yes.

5 Q. And the forest ecosystem
6 classification approach is one way to deal with that?

7 A. That is correct. And through my
8 career over the last 10 years I have been very
9 supportive of it.

10 Q. Mr. Nicks?

11 MR. NICKS: A. Yes. Relative to our
12 company and our three FMAs, none of our three FMAs
13 currently fall into an area that has been classified
14 under the forest ecosystem classification system.

15 There are classification systems under
16 development in both the northern and northeastern
17 regions of the MNR that address the mineral soil areas,
18 the upland areas as opposed to the Clay Belt.

19 So the products of that exercise are
20 expected to be out, I would hope, within a year and in
21 the interim we are using traditional soils-based
22 prescriptions with a recognition of the permutations at
23 the same time. So our foresters in prescribing
24 treatments, do at least mentally create models which
25 relate vegetation and soils together into a new

1 classification, if you will.

2 And I would concur with Mr. Squires that
3 it's a rational approach I think to follow the forest
4 ecosystem classification system concept. The relevance
5 to our silvicultural operations, I would say, has yet
6 to be established. The degree to which the various
7 types which come out of this exercise will apply,
8 particularly to our FMA, is again a question I can't
9 answer at the moment.

10 Q. And that is because you haven't got a
11 system yet to actually test?

12 A. That's correct, and the Clay Belt
13 system does not apply to our area.

14 Q. And do you see yourself, when that
15 system comes in place, trying to put some spacial
16 context on those units in terms of your FMA or FMU?

17 A. Well, I think we will definitely give
18 it a trial run, see if it applies. We've had some
19 input, I personally have had some input - not as much I
20 would have liked because of my obligations to this
21 exercise - but we have provided input to the MNR in
22 terms of suggesting what logical associations of
23 vegetation and soils exist on our units, and I hope
24 they will be in the systems so we can use them.

25 Q. Mr. Waddell, I am going to ask you to

1 wait until the end.

2 Mr. Ferguson?

3 MR. FERGUSON: A. Yes. As Mr. Squires
4 has indicated, I believe you indicated yourself that
5 the forest ecosystem classification document for
6 northwestern Ontario is hot off the press, so to speak,
7 it is not been available for use on my FMA area to
8 date. I in fact have not seen the document myself yet.

9 I am aware in very, very general terms of
10 what the forest ecosystem classification is intended to
11 do. Some of our other company FMAs, I think Canadian
12 Pacific in Thunder Bay area have been doing some
13 preliminary work with the forest ecosystem
14 classification, basically just trying to get an
15 understanding of what it is, what it does.

16 We are certainly intending to look at it
17 and evaluate it to see if it serves some purpose for
18 us. Beyond that, I really couldn't say what our plans
19 are as far as using the system.

20 Q. Mr. Gemmell?

21 MR. GEMMELL: A. We use it generally as a
22 tool, not intensively, but it's related to -- we use it
23 in our silvicultural prescriptions in terms of relating
24 it to site class.

25 We use it especially in the low sites

1 where we want to separate OG11s from OG12s and 13s and
2 14s.

3 Q. OG11s, 12s and 13s are the ecosystem
4 units; is that correct?

5 A. That's right. So we use it in those
6 terms and we have an assistant management forester who
7 is working on that as a project to incorporate it into
8 our system.

9 Q. And does that mean that you are
10 trying to put it in a spacial context in addition to
11 a --

12 A. That's right. That is a big
13 undertaking, because really we are using forest
14 inventory maps which are a key to how we operate. So
15 when you are converting to another system, that is a
16 pretty big operation. So we kind of use it as tool at
17 the moment and are working on it in terms of increasing
18 the use of it.

19 Q. So if it was fully operational, you
20 would see it being used more; in other words, fully
21 mapped?

22 A. If we had a map showing the forest
23 ecosystems the way we do the FRI maps I am sure we
24 would be using it to a greater extent, yes, as an aid.

25 Q. Mr. Murray, I don't know that you

1 have one in your area, so...

2 MR. MURRAY: A. Well again, it would be
3 the responsibility of the Ministry of Natural Resources
4 unit forester. The Algonquin one, which has just been
5 published, would be applicable to that area on specific
6 sites.

7 Q. Yes. Mr. Waddell?

8 MR. WADDELL: A. Mr. Nicks speaks for
9 our company, Mr. Hanna, on this issue.

10 MR. HANNA: Madam Chair, it's ten after
11 ten on the nose, and if you want to take a break this
12 would be the time.

13 MADAM CHAIR: Yes. We will take a break
14 and we will be back at 10:30.

15 ---Recess taken at 10:10 a.m.

16 ---On resuming at 10:30 a.m.

17 MADAM CHAIR: Please be seated.

18 MR. HANNA: Q. Mr. Squires, are you
19 responsible for Section 5.2.2 on page 56?

20 MR. SQUIRES: A. Correct.

21 Q. Looking there at the first paragraph
22 on that page, the second sentence says:

23 "The silvics of the desired and existing
24 tree species or type."

25 I just wanted to find out what you mean

1 there by the word type in this context?

2 A. May I have a moment to read that
3 sentence?

4 Q. Certainly.

5 A. Type in that context means the forest
6 type made up of the number of tree species.

7 Q. So it would be the silvics of the
8 desired and existing stand type?

9 A. Cover type.

10 Q. Cover type. I would like now to deal
11 with the matter of natural regeneration. I believe
12 it's dealt with on page 83 of the witness statement and
13 I am not sure who to speak to on this section.

14 MR. WADDELL: A. Mr. Gemmell gave oral
15 evidence on this section.

16 Q. Mr. Gemmell, are you familiar with
17 the concept of ecotypes developing within trees and
18 other plant species that have adapted to a specific
19 local environment?

20 MR. GEMMELL: A. Somewhat. The word is
21 not one I would use normally, but I understand what you
22 mean, I think.

23 Q. I am happy to use your word. What
24 would you use for that, to describe that type of
25 situation or that type of specifics or organism?

1 A. Ecotype is fine.

2 Q. Now, is one advantage of natural
3 regeneration that the potential to maintain genetic
4 diversity within the forest and to retain locally
5 adapted ecotypes is considerably greater?

6 A. In some situations it could be. To
7 maintain the genetic quality of the stand, is that what
8 you are asking me?

9 Q. I am talking about -- yes, each stand
10 has its own gene pool, if you will?

11 A. That's right, sure.

12 Q. So we have got this diverse array of
13 gene pools out there; is that correct?

14 A. That's correct.

15 Q. And they consist of locally adapted
16 ecotypes?

17 A. That's correct.

18 Q. Now, if we want to maintain the
19 diversity of that genetic base, one way to do it or one
20 way to enhance that is through natural regeneration?

21 A. That's right.

22 Q. And in fact you refer to that; do you
23 not, in your witness statement on page 84, point 5 at
24 the top:

25 "Perpetuation of the local genetic

1 material."

2 That is what you mean there?

3 A. That's right. I just commented
4 before because there is the opposite possibility also,
5 the fact that if you have poor genetic material you
6 could maintain poor quality too in other situations.

7 Q. Let's deal with that right now then.
8 You are referring to point six there on page 84; are
9 you?

10 A. That's right.

11 Q. The way I read that was the potential
12 for genetic quality loss if inferior seed trees are
13 left, it's premised on leaving inferior seed trees?

14 A. That's right.

15 Q. The alternative is, it could be an
16 advantage if superior seed trees are left. That is
17 something we have in our control?

18 A. Somewhat.

19 Q. There is all those other natural
20 forces and whatever, but as much as -- it is something
21 we have some control over?

22 A. (nodding affirmatively)

23 Q. And so that could be listed as a
24 benefit or an advantage of natural regeneration, if
25 superior seed trees are left?

1 A. Superior seed trees or advance growth
2 whatever, yes, that's correct.

3 Q. Is one of the concepts behind
4 artificial regeneration the use of genetically superior
5 specie strains?

6 A. I believe that is the long-term
7 objective, yes.

8 Q. Perhaps you can explain to me what
9 you mean by the long-term objective?

10 A. I am not totally familiar in that
11 field, but there are genetically improved stock being
12 developed, it's not generally available at this point
13 in time.

14 Q. Now, back to my question before. You
15 had mentioned that in some cases the natural -- or the
16 genetic diversity of the stands could be retained
17 through natural regeneration. When couldn't it be?

18 A. Well, I think the example was
19 given -- I think in fact an example for this potential
20 for genetic quality loss applies to perhaps Mr.
21 Murray's area in the tolerant hardwoods where, maybe I
22 would let him explain that.

23 Q. Okay. I am happy to hear Mr. Murray,
24 he's dealing however with the Great Lakes/St. Lawrence
25 Forest.

1 A. That's right.

2 Q. I am dealing here, I was focussing
3 more on the boreal forest.

4 A. Yeah, okay. Would you repeat your
5 question then, please?

6 Q. You had indicated that natural
7 regeneration could in some circumstances assist in
8 maintaining the natural diversity of the gene pool we
9 have in the forest. I want to know the situations
10 where it couldn't.

11 A. Well, actually I suppose I don't know
12 the genetic quality of the trees other than a visual
13 quality of them, so I wouldn't know when or when not it
14 was occurring.

15 MR. NICKS: A. Could I attempt to answer
16 that question, Mr. Hanna?

17 Q. Certainly, Mr. Nicks.

18 A. You are asking in what situations
19 would natural regeneration be unable to maintain the
20 diversity of the gene pool?

21 Q. Would not lead to, yes, that
22 maintenance.

23 A. I think that would be the case where
24 there would be either no advance growth to be found on
25 the site or no local seed source to be found on the

1 site and, therefore, natural regeneration would not be
2 a possibility.

3 But in that case artificial regeneration
4 could maintain the gene pool if seed from the same
5 stand were to be collected or from immediately adjacent
6 areas have been collected and used for other direct
7 seeding of plants. That would be a situation.

8 Q. So you would maintain the gene pool
9 of at least the commercial species?

10 A. Well, I think you would -- yeah, if
11 there was some limitation on the natural regeneration
12 of non-commercial species such as aspen, but I can't
13 think of any significant area where aspen would not
14 regenerate on its own, or even white birch.

15 Q. Now, the situation you just gave me,
16 Mr. Nicks, I was interpreting what you were saying was,
17 if you did -- if you practised large clearcuts such
18 that natural seeding could not be possible, but the
19 alternative that you are proposing would be a viable
20 option; is that correct?

21 A. That would be correct. I am not sure
22 how prevalent that situation would be particularly in
23 spruce, and Mr. Gemmell's evidence, I believe most of
24 his natural regenerated areas regenerated through
25 advance growth which is of course local material.

1 I can think of an example from my own
2 experience with jack pine where that might be the case.
3 Natural regeneration is not effected in our experience
4 with jack pine, so we make a concerted effort within
5 our own company to collect local seed and return it to
6 the actual stands from which it came.

7 We have a company seed collection
8 program, at our own cost I would add, of selecting
9 superior trees approximately five to ten per acre from
10 the best stands, pure jack pine types and returning
11 that seed as seedlings to the site.

12 Q. But there are upland black spruce
13 stands where natural seeding is effective; is it not,
14 through things like strip cuts?

15 A. I think, not being an expert in black
16 spruce, I would have to defer this to Mr. Gemmell or
17 Mr. Squires. But their evidence yesterday, if I could
18 just --

19 Q. Well, let them talk.

20 A. I will let them talk to those.

21 Q. Mr. Squires? Mr. Gemmell?

22 MR. GEMMELL: A. I can't help but see if
23 you were here yesterday we covered that topic in quite
24 detail and in the Clay Belt, as I explained yesterday,
25 the upland clay sites there is very rich sites, lots of

1 competition, natural seeding to black spruce is not --
2 is a risky prescription. We discussed that yesterday.

3 Q. Do get the adequate stocking out of
4 the commercial softwood species you are after?

5 A. That's right, black spruce.

6 Q. Mr. Squires, in terms of upland sites
7 in northcentral and northwestern Ontario, strip cutting
8 however has been effective as a regeneration technique;
9 has it not?

10 MR. SQUIRES: A. On upland sites did you
11 say?

12 Q. Yes.

13 A. In my opinion, variable success.

14 Q. In those situations where it has been
15 successful, you do however have the advantage of having
16 retained the local genetic material that has adapted to
17 that site; is that not correct?

18 A. That is correct.

19 Q. Excuse me if I am sort of shooting
20 here and not knowing who to shoot at, but I will try to
21 go back to Mr. Gemmell and you can direct me if I'm
22 aimed at the wrong person.

23 Mr. Gemmell, does not artificial
24 regeneration lead potentially to lower genetic
25 diversity within certain stands?

1 MR. GEMMELL: A. I can't answer the
2 genetic circumstances.

3 Q. Mr. Squires or Mr. Nicks?

4 MR. SQUIRES: A. I can't speak straight
5 to genetics I am not a geneticist, but I can speak from
6 observations.

7 You seem to be implying that the stand on
8 a site is the sole source of the genetic make up of the
9 next crop in natural regeneration. I don't know if you
10 are familiar with pollen drift with black spruce in
11 particular, but it is considerable and I understand
12 both male and female contribute to the genetic make up
13 of the offspring.

14 I will relate an experience I had in the
15 spring of 1988 which was an exceptionally good seed
16 year, I was out in a helicopter reporting -- or
17 attempting to track down a fire report. The smoke that
18 had been viewed was pollen driven and that pollen that
19 day was drifting miles and miles.

20 Q. I have stories to tell about pollen
21 too, but I will have to tell you not here, in another
22 forum.

23 The question though that I asked was:
24 What you are saying is that in terms of natural
25 regeneration that there is potential of interbreeding

1 over a large area because of pollen drift; is that
2 correct?

3 A. That is correct.

4 Q. And I am dealing with artificial
5 regeneration.

6 A. Yes and I would like to extend my
7 statements in that direction, in that seed is collected
8 from the general area in most of our cases and applied
9 back to sites in that area, so that we get that same
10 genetic diversity in that sense.

11 Q. I want to make sure I understand
12 that. So you are saying to me that seed is collected
13 from your FMU, it is then sent to a greenhouse, grown
14 into seedlings, and those seedlings come back on to
15 your site; is that the general practice?

16 A. There are other steps in the practice
17 including collection of seeds, then you get to the
18 annual seed extraction plant, seed is marked by
19 location origin and the tendency is to send that seed
20 back to the same location.

21 Q. I am talking about -- I understand
22 you are talking about direct seeding now.

23 A. Both direct seeding and in the case
24 of producing seedlings in greenhouses as you referred
25 to.

1 Q. Mr. Squires, I will ask you this
2 question again. I am not sure who should be the right
3 person. Are you familiar with any studies that have
4 shown that the use of supposedly superior strains of
5 commercial species did not result in the type of growth
6 response that was projected?

7 MR. SQUIRES: A. You are talking about
8 in the area of the undertaking?

9 Q. Yes.

10 A. I am not sure I have got the --

11 Q. I will read it to you. Are you
12 familiar with any studies that have shown that the use
13 of supposedly superior strains of commercial tree
14 species did not result in the type of growth response
15 that was projected?

16 A. I can think of one particular stand
17 on our freehold land which is outside the area of the
18 undertaking where we did take seed from a suspected
19 superior stand and apply it and it did not perform.

20 This would have been phenotypical not
21 genetic, and that's the limit of my genetic
22 understanding. I am not familiar with any other
23 studies that whether you may be referring to.

24 Q. Just for the Board's appreciation,
25 phenotypical you are meaning...?

1 A. Mainly the non-genetic appearance of
2 superiority or inferiority, whichever the case may be,
3 relative to a genetic appearance or trace.

4 Q. That would be characteristics that
5 you could observe in the tree which suggested to you
6 that it was a superior strain were not actually a
7 function of its genetic make up; is that a fair summary
8 of what you are saying?

9 A. That's correct.

10 MR. NICKS: A. I would like to define
11 that a little more precisely. I think, as the Board
12 heard in the Ministry's tree improvement evidence,
13 phenotype is the product of environment and genotype --
14 and that it may or may not be superior -- phenotype may
15 or may not reflect genetic superiority.

16 That is the purpose of genetic testing,
17 to sort out the effects of environmental conditions.

18 MR. SQUIRES: A. Thank you, Mr. Nicks.
19 Now that you have refreshed my memory, I agree.

20 Q. Mr. Nicks, maybe I will ask you these
21 questions. The problem with volunteering things, you
22 get the next question.

23 Is it possible that the reason that
24 superior trees do not do as well on many occasions is
25 that the local microenvironment is significantly

1 different than the site on which the strain has adapted
2 genetically to perform superiorally?

3 A. Well, it's a possibility that if
4 the -- well, first of all, let me say that the way that
5 genetic superiority is established is through the use
6 of well replicated and designed genetic tests and the
7 approach that is taken by the MNR and Industry in its
8 tree improvement efforts is to, first of all, select
9 sites which are representative of the field planting
10 sites and that involves usually three tests per
11 breeding zone.

12 Q. Slowly. Three tests per breeding
13 zone?

14 A. Per breeding zone.

15 Q. What do you mean by breeding zone?

16 A. Breeding zone is a relatively small
17 area with similar climatic and soils conditions,
18 particularly climatic conditions, within which it is
19 felt to be safe to move genetic material around, and
20 selections are made in a breeding program from within
21 that area which -- well, talking generally, could be --
22 I will give you an example.

23 In the northern region where I was
24 involved with this type of work, I believe we had four
25 breeding zones for jack pine and five for black spruce

1 and once the breeding zone is established, selections
2 are made from the natural forest, seed is extracted and
3 genetic tests are established on a range of sites which
4 represent, as I say, operational conditions.

5 And then after careful examination over a
6 period of 15 years on the superior phenotypes have
7 been -- families in this case have been selected, then
8 groving of the seed orchard occurs and use of the seed
9 from the same families is made through a tree planting
10 program.

11 And if the genetic tests were established
12 on representative sites and things haven't changed a
13 great deal, when it comes to operational planting our
14 expectation is that the family, the material performing
15 well in the tests will indeed continue to perform well
16 in the outplanting environment.

17 Now, there may be local cases as you
18 note, I think you are driving at, where the microsite
19 say is a frost pocket or an excessively drained site
20 which is non-typical of average conditions in the tests
21 and there is a possibility that through environmental
22 influences that the growth rate may be depressed.

23 Q. When you said three tests per
24 breeding zone, can you explain to me by a test, what is
25 a test in that definition?

1 A. Okay. A test is a very carefully - I
2 don't want to repeat the evidence of the MNR at
3 length - but it's a very carefully designed and laid
4 out experiment where spacing is controlled exactly,
5 single tree plots are used, each tree is tagged
6 according to its family, number which relates to the
7 original plus tree selection, and the site is
8 deliberately selected to be as uniform as possible so
9 that the background noise, as we call it, in
10 environmental variation is minimized so that the growth
11 rates and form characteristics of the trees on that
12 site can be said, with some authority, to be the result
13 of genotype and not environment.

14 Q. Okay. So you have three tests then
15 all on the same uniform site, maybe not adjacent to
16 each other but they would be on the same site type?

17 A. No, not at all. The tests are
18 deliberately selected to cover the range of sites on
19 which it's expected that --

20 Q. No, no. Whoa, whoa. You said you had
21 three tests for breeding zone?

22 A. That's correct.

23 Q. There is three tests per site type,
24 or the three tests cover the range of site types?

25 A. They cover the range of site types.

1 Q. So there is three site types?

2 A. Three major site types are selected.

3 Q. Mr. Squires -- or Mr. Nicks, I asked
4 Mr. Squires whether he was familiar with any studies
5 that have shown the use of supposedly superior strains
6 of commercial tree species did not result in the type
7 of growth response that was projected. Are you
8 familiar with any studies?

9 A. I guess I need a definition of
10 supposedly superior strains.

11 Q. I guess I will go to your witness
12 statement. There is a reference on page 82 and page
13 75. On page 75 under the first paragraph in italics it
14 says that:

15 "A major advantage is to govern the
16 genetic constitution of the new stand
17 more precisely."

18 I presume the reason you want to control
19 the genetic constitution is to pick superior genetic
20 material; is that correct or not?

21 A. That is the intent of tree
22 improvement generally, yes.

23 Q. Well, there is what I mean.

24 A. Okay. So you are talking about after
25 the completion of a breeding program when tests have

1 established the material is indeed or is expected to be
2 superior, if this supposedly superior material were
3 moved to a site and planted has there been any
4 situation where performance has been less than
5 expected?

6 Q. And I presume that is what you are
7 saying on page 75 and also on page 82 when you mean
8 genetic material?

9 A. I am talking about improved material
10 as a result of the testing program is valid, yeah.

11 Q. Well, are you not saying that on page
12 75?

13 A. I am not saying it in so many words.

14 Q. Well, I appreciate that. There is
15 two words there and there was more than that in what
16 you said. I am trying to understand the meaning of
17 what you said.

18 A. Well, I am trying to answer your
19 question, and I guess really what I am trying to
20 establish or state to you is that I think the matter
21 concerns material which -- superior material in my mind
22 has to be established through a selection and testing
23 process. It's the only case in which I would consider
24 it to be genetically superior.

25 It's not enough to select phenotype and

1 regard them as superior without testing.

2 Q. Okay. Let's take your superior
3 tests.

4 A. Yeah, tested material. Well, as you
5 may appreciate tree improvement in Ontario certainly in
6 the area of the undertaking is a relatively new program
7 and the genetic tests are under way - some of them are
8 as old as six, seven years - and with a time frame of
9 15 years on genetic testing, I am afraid we don't have
10 bona fide improvement material, certainly for jack pine
11 and spruce to form the basis of experiments such as you
12 have described or situations you have described.

13 There are local studies out of Petawawa
14 National Forestry Institute where they have used things
15 like beech, fir, white spruce which has performed well
16 in tests and been outplanted broadly across North
17 America and in some locations it performs -- it
18 outperforms the local material, in other locations it's
19 inferior to the local material.

20 Q. Is it not possible that the reason
21 this occurs is that the native locally adapted strains
22 are better adapted to the local environment?

23 A. Absolutely. That is one of the
24 truisms of tree improvement, one of the concepts that
25 we embrace is that local seed generally performs best

1 that has been established through providence trials of
2 jack pine, again conducted by PNFI and that is why we
3 concentrate initially in our base programs on local
4 seed selection.

5 Q. PNFI?

6 A. Petawawa National Forestry Institute.

7 Q. Oh yes, I used to be involved with
8 them. Are the factors that you listed - and I say you
9 here again - whoever on the panel, on page 56 to 59,
10 there's 12 factors listed there in terms of this
11 silvicultural prescription for a particular site. I
12 didn't see any reference to considerations such as
13 maintaining local genetic diversity; is that correct?

14 MR. SQUIRES: A. I assume you are
15 addressing me?

16 Q. Okay. If you are the man, Mr.
17 Squires, then I am addressing you.

18 A. The question again was...?

19 Q. In these factors I don't see any
20 reference as part of the choice and timing of the
21 silvicultural prescriptions for renewal, any reference
22 to considerations such as maintaining local genetic
23 diversity.

24 MR. NICKS: A. I believe that's correct.
25 I would point out, if I may, that under point No. 6,

1 the availability of seeding --

2 Q. Sorry, Mr. Nicks, what was that?

3 A. Under point No. 6 on page 57.

4 Q. Yes?

5 A. The availability of seed and planting
6 stock, I think inherent in that is the availability of
7 suitable seed, certainly locally adapted material.

8 Q. Slowly here. Let's put it in. So
9 you are saying suitable locally adapted seed and
10 planting stock. Is that what you are saying should be
11 there?

12 A. Yes, to me that's implicit in that
13 statement, it certainly is in my mind as a
14 silviculturalist, that the decision to plant or seed
15 must consider the genetic suitability of that material
16 on the site.

17 Q. And also -- well, perhaps I will just
18 come at it from this point of view. Do you agree with
19 me there is a lot of - I can't remember my genetics -
20 but genetic characteristics that aren't often easily
21 visible, there is a lot more to genes than just how big
22 your trunk is and how high you grow; correct?

23 A. That's true, and there are a number
24 of genetic characteristics of which we have an
25 interest, yes, besides just growth rate.

1 Q. And so when you say suitable locally
2 adapted seed and planting stock, you are saying
3 implicit in that is a concept of maintaining some
4 composition of the local gene pool?

5 A. That's right. Local seed selection
6 serves two purposes; it perpetuates the local material
7 and ensures that the material that is planted is suited
8 to the sites where we get the best performance all
9 around from the stand.

10 Q. Do you feel that consideration of
11 maintenance of genetic diversity is an important
12 consideration in managing a forest?

13 A. I absolutely do. We take steps to
14 ensure that even with the tree improvement program
15 because if you would review, or have reviewed the tree
16 improvement strategy for Ontario as written by the MNR,
17 although we are, all of us in tree improvement, seeking
18 to produce improved material, there is the provision at
19 each generation of breeding to introduce new material
20 so that the gene pool is maintained.

21 Q. Thank you.

22 Mr. Squires, I would like to turn to page
23 58 and I am looking at factors 11 and 12 on that page.
24 Both of these indicate that on fertile sites
25 competition from non-commercial tree and herbaceous

1 species are greatest; is that correct?

2 MS. CRONK: I am sorry.

3 MR. SQUIRES: On the most fertile --

4 MS. CRONK: I am sorry, Mr. Hanna, could
5 you repeat that.

6 MR. HANNA: Sure, Ms. Cronk.

7 Q. Factors 11 and 12 both indicate that
8 competition from non-commercial tree and herbaceous
9 species are greatest on fertile sites; is that correct?

10 MR. SQUIRES: A. I think that's
11 generally the case, yes.

12 Q. Does it follow then that these are
13 the sites that require the most intensive management in
14 terms of site preparation and renewal?

15 A. Not necessarily so.

16 Q. And give me a situation where that
17 isn't the case?

18 A. In my case study 4C I was talking
19 about one such site which was described as a fertile
20 site. In the case study I did talk about a fairly
21 intense level of renewal, however, that was on NSR
22 which I believe you understand of very heavy long-term
23 plant competition development. In that case, yes,
24 heavy site preparation was carried out.

25 But today on similar sites on our recent

1 cut-overs we are using Bracke patch scarifiers and
2 planting black spruce at much reduced cost, much less
3 intensity, only one application of mechanical site
4 preparation and no chemical site preparation in most
5 cases followed by, to date, one tending which is
6 basically the prescription that applies to much of the
7 upland sites of our area.

8 Q. Yes, but tending is a chemical
9 tending?

10 A. Generally it would be a chemical
11 tending.

12 Q. Okay. When you say it's less
13 intensive, it's less intensive in those NSR lands that
14 had a long history of vegetation competition. Is that
15 what you mean by less intensive?

16 A. That is correct.

17 Q. Okay. But let's talk about sites now
18 that haven't been adequately managed in the past but
19 sites that you are currently harvesting and look
20 relative to those. Is the intensity of management
21 higher generally on the more fertile sites or the less
22 fertile sites?

23 A. Higher in the sense that we are more
24 likely to plant? What I am saying is relative to site
25 preparation the intensity today is not all that

1 different.

2 Q. Perhaps you can explain to me this
3 sentence here on page 58, point 11, it says:

4 "Fertile sites are characterized by the
5 development of a range of competing
6 species."

7 The sense that I got of reading the
8 remainder of that suggests that the fertile sites was
9 where the competition was most pronounced. Is that an
10 incorrect reading of that?

11 MS. CRONK: He already agreed with that.
12 He already agreed with that, Mr. Hanna.

13 MR. HANNA: Q. So you have more
14 competition on these sites, but just because there is
15 more competition doesn't mean that you need more site
16 presentation or more tending?

17 MR. SQUIRES: A. We need tending, yes.

18 Q. Okay. Maybe that is where I'm --

19 A. And I have described a level of site
20 preparation that is light relative to what was done on
21 the case study area and we are today on the Spruce
22 River Forest using basically light site preparation
23 across most sites which comes about partly from
24 full-tree harvesting and perditious use of chemical
25 herbicides.

1 Q. For tending?

2 A. For tending.

3 Q. I see. So because you can deal
4 extensively with competition during the tending phase,
5 that has reduced your need for site preparation
6 intensity; is that correct?

7 A. Not just that, it's partially the
8 reason.

9 Q. And the full-tree harvesting and the
10 other things. These fertile sites though are the ones
11 that are most likely to receive the tending
12 prescriptions?

13 A. That is correct.

14 Q. The last sentence in point 11 says:
15 "In many situations chemical control
16 measures as part of a site preparation
17 and/or tending program are necessary if
18 conifer regeneration is to be achieved."

19 When you say many situations there, are
20 you saying most, all, or very few?

21 MS. CRONK: Well, he said more.

22 MR. HANNA: Q. Are we talking about most
23 of the sites?

24 MR. SQUIRES: A. It's very site-specific
25 and some rich sites may need it some may not. A site

1 may be rich and fertile and have low moisture, so there
2 is quite a bit of variation across rich sites.

3 Q. So we will leave it at many.

4 A. (nodding affirmatively)

5 Q. On page 59 under Section 5.2.3 Site
6 Preparation, is that again your section, Mr. Squires?

7 A. No, it is not.

8 MR. NICKS: A. I delivered that section.

9 Q. Mr. Nicks, it's the second sentence
10 there in the first paragraph. You indicate:

11 "As a general rule site preparation is
12 crucial to the successful establishment
13 of conifer regeneration."

14 Successful establishment means meeting
15 minimum stocking standards; is that what you mean by
16 successful establishment?

17 A. That is one definition. I would
18 suggest that it also includes growth rates. Although
19 strictly speaking the obligation of the FMA is to meet
20 the stocking criteria growth rates, as we discovered
21 this morning, are covered under the free to grow
22 assessment.

23 Q. Mr. Nicks, without going through page
24 by page this section, I am speaking from pages 59 to
25 63, is it a fair conclusion to draw from this section

1 that the level of site preparation and artificial
2 regeneration is increasing significantly over the area
3 of the undertaking compared to historical trends?

4 A. The area of site preparation and
5 regeneration, or just site preparation?

6 Q. The level, however way you want to
7 define it, the level of site preparation and artificial
8 regeneration?

9 If you want to define it in areal terms
10 that is fine, that's the unit of measure you have used
11 in much of the discussion.

12 A. Well, I agree there has been an
13 increase certainly in the amount of site preparation
14 and artificial regeneration, there has also been an
15 increase in the harvest of course in that same time
16 period as well, but I am not sure whether one can
17 conclude from the information here what the exact
18 relationship is in terms of the amount of artificial
19 regeneration or the ratio of artificial to natural,
20 whether that's altered significantly.

21 Q. Well, perhaps -- I believe it's in
22 the witness statement somewhere, I can't find it at the
23 present time.

24 Can any of the other panel members help
25 me in terms of whether or not the area of site

1 preparation and artificial regeneration is increasing,
2 has increased significantly over the area of the
3 undertaking in the last 20 years?

4 MR. WADDELL: A. Increase in site
5 preparation does not necessarily translate into
6 increase in artificial regeneration. We also do site
7 preparation for natural as well.

8 Q. Okay. Let's take it one at a time.
9 Has the area being site prepared increased
10 significantly over the area of the undertaking compared
11 to historical trends?

12 MR. NICKS: A. I think that is certainly
13 supported by Figure 4 on page 63. There has been a
14 very large increase, 110 per cent increase I believe is
15 the figure we calculated on all Crown lands.

16 Q. Has the area artificially regenerated
17 increased significantly over the area of the
18 undertaking in the last 20 years?

19 A. Did you say 20 years?

20 Q. Yes.

21 A. Well, certainly if one looks at --
22 and again we are talking artificial?

23 Q. Yes.

24 A. If we go back to Table 1 on page 60,
25 and look under the column 1972 for area treated.

1 Q. Yes.

2 A. And we add the planting component
3 35,000 some odd hectares to the direct seeding
4 component, we come up with a total of approximately
5 45,000 hectares in 1972.

6 And if we turn to page 72 and look at
7 Figure 5, the left-hand side we see that by 1988 we
8 have a figure of 125,000 roughly hectares, but the
9 composition of that regeneration total is not clear in
10 terms of the amount of artificial and natural; it
11 includes both.

12 Q. So you can't answer that question for
13 me at the moment?

14 A. Not without some further inspections.

15 Q. Would you mind doing that for me and
16 giving me those numbers, please?

17 MS. CRONK: Well, I am sorry. What
18 numbers are you asking for? Mr. Nicks has answered the
19 question. If you require further details, let's be
20 clear about the undertaking.

21 MR. HANNA: Fine. The question is, I
22 wanted to know the trend since 1972 in the area
23 artificially regenerated in the area of the
24 undertaking.

25 MS. CRONK: I don't know, Madam Chair, if

1 Mr. Nicks or the other witnesses are in a position to
2 answer that question in terms of statistical data.
3 Perhaps we should establish that first before an
4 undertaking is given.

5 MADAM CHAIR: Mr. Nicks?

6 MR. NICKS: Well, Madam Chair, the
7 difficulty I have is I don't have a provincial
8 perspective. I can only really speak for my own
9 company and this panel for the OFIA/OLMA, and I think
10 we have established that our regeneration efforts do
11 not cover the entirety of the area of the undertaking.

12 That is information the MNR would be much
13 more able to answer; therein my difficulty lies.

14 MS. CRONK: The problem that I am having
15 with it, Madam Chair - and I recognize that Mr. Hanna
16 wasn't here yesterday, so to assist him - on this very
17 issue there is information before the Board from this
18 panel dealing with the fifth-year stocking results, it
19 breaks out the proportion due to artificial treatments
20 versus natural treatments and there is an undertaking
21 outstanding with Ms. Swenarchuk about the breakdown of
22 the natural component of that, that is the first
23 element, from 1980 on, and that information is here.

24 There is also information through this
25 panel about the overall degree of regeneration

1 treatments as contained in the figures that Mr. Nicks
2 has pointed out.

3 Beyond that, the evidence is they weren't
4 responsible for renewal prior to 1980 with the FMA
5 program, so I am not sure how they can get statistics
6 to answer the question that Mr. Hanna has asked beyond
7 that.

8 MADAM CHAIR: Mr. Hanna, you said you
9 would be a few minutes after lunch finishing your
10 cross-examination?

11 MR. HANNA: I said an hour, Madam Chair.

12 MADAM CHAIR: An hour. Would you like to
13 take the opportunity at the lunch hour to look over the
14 transcripts of yesterday for that information to see if
15 it satisfies you?

16 MR. HANNA: I am not sure a lot turns on
17 this. I thought the numbers would be fairly easy,
18 forthcoming. I've seen the trends the data presents
19 here in the witness statement, I simply wanted to make
20 it complete. If these witnesses can't provide it to
21 me, then they will have to wait for another time. If
22 they are suggesting to me they don't have that data,
23 that's fine.

24 MADAM CHAIR: I think generally we all
25 accept from generally all the evidence we've heard

1 that, yes, there has been an increase in artificial
2 regeneration over various periods of time, in this
3 instance since 1972, and certainly since the signing of
4 the FMAs.

5 MR. HANNA: I think I will wait on that.

6 Q. Mr. Nicks, assuming that site
7 preparation is expanded over the area of the
8 undertaking, I think we have agreed to that; correct?

9 MR. NICKS: A. The figure in our witness
10 statement would suggest that, the figure extracted from
11 the FMA Task Force report, yes.

12 Q. Okay. Is it your view that as a
13 result of this there will be more successful
14 establishments of conifer regeneration over the area of
15 the undertaking?

16 A. More successful in comparison with
17 past practices, yes.

18 Q. Do you expect this level of effort in
19 terms of site preparation to continue to increase into
20 the future?

21 A. Well, again, I can only speak
22 definitively to that for our own company, and I think
23 we indicated yesterday to the Board that we have
24 stabilized in terms of our amount of mechanical site
25 preparation and other forms of site preparation in that

1 we have established a wood supply target for our
2 company, we have reached the level of treatment that we
3 must endeavour to undertake, specifically the amount of
4 site preparation we must do, and I would see that
5 subject to the allocation of resources under the FMA
6 program that we will maintain the current level, not
7 increase.

8 Q. And you can't speak for the remainder
9 of the area of the undertaking?

10 A. No, because I don't have first-hand
11 knowledge of the wood production targets of each and
12 every company. I am afraid I am not qualified to say
13 that.

14 Q. What proportion of the area harvested
15 would be site prepared on the areas that you are
16 familiar with?

17 A. Approximately 70 per cent.

18 Q. Would you agree that if there are
19 greater demands put on mills in terms of demand for
20 wood fiber that more intensive site preparation will be
21 necessary?

22 A. It's a hypothetical question.

23 Q. It is.

24 A. I can't answer that, other than for
25 my own company. We don't at the moment anticipate any

1 increased demand for fiber so, therefore, we won't
2 expand our site preparation program unless we are not
3 getting the yield that we expect to get.

4 Q. Try and let your mind expand a bit,
5 that you do have those sort of demands put on your
6 mills.

7 MS. CRONK: That is a little offensive,
8 sir. I know you probably didn't mean it that way, Mr.
9 Hanna, but let's not get into whose minds are broad in
10 this room.

11 MR. HANNA: Q. Accepting that it is a
12 hypothetical, try and deal with the hypothetical.

13 MR. NICKS: A. Okay. The hypothesis
14 being that the demand for softwood increases
15 provincially?

16 Q. No, deal with your mill. You said
17 your mill is the only mill you can deal with.

18 A. I am not a mill executive and Mr.
19 Boswell was here and that was a question for him. I
20 have no idea what the intention of the company is as
21 far as expanding the mill.

22 Q. Mr. Waddell, can you help us, not
23 what intentions you have of expanding the mill, but if
24 the mill were to be expanded or the demand for wood
25 fiber were to increase, would one of the options you

1 would explore be to site prepare, more intensively
2 manage a greater portion of your FMU?

3 MR. WADDELL: A. I don't think so
4 because we are bumping the upper limit of our allowed
5 cut at the moment. There is just no more permissible
6 area out there for us to cut, and I believe that we are
7 also treating, as Mr. Nicks has mentioned, we are site
8 preparing approximately 70 per cent of the available
9 cut-over.

10 We probably cannot site prepare or treat
11 any higher percentage than that artificially and,
12 therefore, I would not expect that our silvicultural
13 practices in that sense would change.

14 I believe that we are maximizing our
15 regeneration effort on our three FMAs right now. I
16 don't think there is much more room for us to go.

17 Q. Is that view held by the other
18 members of the panel for the FMUs that they are
19 familiar with?

20 MR. FERGUSON: A. Yes, I would agree
21 with what Mr. Waddell has indicated, the level of
22 harvest and renewal as such, as given by the MAD
23 calculation. We are currently operating at our full
24 MAD on Canadian Pacific's FMAs and do accordingly, so I
25 see no reason why that would increase.

1 Q. Rather than go through the whole
2 panel, anyone that has a different view I solicit at
3 this time.

4 (no response)

5 Fine. Mr. Nicks, is not one of the
6 factors that controls the amount of site preparation
7 that takes place economics?

8 MR. NICKS: A. It certainly is one of
9 the factors, yes.

10 Q. So if we are able to reduce the cost
11 of site preparation we can in fact increase the area
12 that would be eligible or feasible for site
13 preparation; correct?

14 A. All other factors being equal, if the
15 land were available, the excess land were available and
16 there were no constraints on site preparation for other
17 users, hypothetically, yeah.

18 Q. That 30 per cent of the land that you
19 have referred to, is that all tied up in other users?
20 Why don't you site prepare that other 30 per cent; is
21 cost not a factor?

22 A. Cost is a factor in why we don't site
23 prepare some of the other 30 per cent I guess. Some of
24 our evidence yesterday indicated that some of that
25 cut-over area involves areas within excess of 12 to 15

1 cunits per acre of aspen and it's simply not practical,
2 just from a logistical sense, to bulldoze and pile that
3 material up to establish softwood.

4 Q. Because it's too expensive?

5 A. Well, as you are probably aware we
6 are working within a set allocation of funding from the
7 MNR and it doesn't represent a wise use of the funds to
8 expend monies on excessive amounts of heavy site
9 preparation when the mill doesn't necessarily require
10 the volumes from those areas down the road.

11 Q. Now, continuing on this theme, but I
12 would like to turn to page 73. I am looking at the
13 last sentence on that page that carries over to page
14 74. It's referring to artificial regeneration, it
15 says:

16 "This is so because artificial
17 regeneration has the potential to more
18 consistently produce more evenly spaced
19 and higher yields forests and it permits
20 a greater degree of control over species
21 composition in new stands."

22 Do you see that?

23 MR. NICKS: A. Yes, I see that. The
24 person who gave this particular evidence I believe was
25 Mr. Squires, but if you want to address that question

1 to me, that's fine.

2 Q. Fine. Maybe you can answer. Is it
3 fair to conclude from this statement that the potential
4 for foresters to control forest structure is increasing
5 as increasing resources are committed to regeneration
6 and tending?

7 Let me read it again for you, Mr.
8 Squires.

9 MR. SQUIRES: A. Are you addressing it
10 to me? Okay.

11 Q. Well, Mr. Nicks -- do you want me to
12 read it again?

13 A. Please.

14 Q. Is it fair to conclude from this
15 statement and the general thrust of this section that
16 the potential for foresters to control the forest
17 structure is increasing as increasing resources are
18 committed to regeneration and tending?

19 I just caution before you answer, I am
20 not saying absolute control, I said increasing control.

21 A. You are assuming that the resources
22 are increasing?

23 Q. Okay. Yes, I am.

24 A. I am not aware they are.

25 Q. Okay. And if they aren't?

1 A. Probably not going to increase.

2 Q. And if they are?

3 A. Mr. Nicks has testified that in his
4 company's operation it's not likely to and that he
5 feels as the other representatives here, we all agreed
6 that in our case they would not.

7 Q. Then I have a hard time understanding
8 this sentence. It says:

9 "This is so because artificial
10 regeneration has the potential to more
11 consistently produce more evenly spaced
12 and higher yielding forests and permits a
13 greater degree of control over species
14 composition in new stands."

15 What does that mean if it doesn't mean
16 you have got more control over the forest structure?

17 MS. CRONK: Well, that wasn't the
18 question, with the greatest respect, the question was
19 keyed to resources.

20 MR. HANNA: Well, maybe I will try it
21 again, then.

22 Q. I thought I had established with Mr.
23 Nicks that one of the factors that is controlling the
24 amount of site preparation is the amount of resources
25 being allocated to that activity, and he said we

1 wouldn't pile up aspen because it wouldn't be a good
2 use of the funds. And I am now saying to you, if those
3 funds increase --

4 MR. NICKS: A. Excuse me. I said we
5 wouldn't pile up aspen beyond what we are already
6 doing. I am not denying the practicality or the need
7 for that treatment to a level of approximately 20 per
8 cent of our site preparation, which was what I
9 indicated in my evidence yesterday.

10 Q. And you mentioned the fact that there
11 was limited resources and you felt that you had to
12 responsibly allocate those where you would get the best
13 return on the investment; did you not?

14 A. That's correct.

15 Q. And if I gave you more resources you
16 would have more ability to treat and manage a larger
17 area or to treat the same area more intensively; is
18 that not correct?

19 A. Only if I wished to increase the wood
20 supply to the mill. And I have told you that we have
21 no plans to do that, so you have given me a
22 hypothetical sum of money which I don't necessarily
23 want.

24 Q. Mr. Squires, what do you mean when
25 you say artificial regeneration permits a greater

1 degree of control over species composition in new
2 stands? Do you not mean that you can control the
3 temporal and spacial structure to a higher degree than
4 you can without that?

5 MR. SQUIRES: A. Most definitely.

6 Q. And the level of artificial
7 regeneration is partly controlled by economics; is it
8 not?

9 A. Economics and demand. Economics is a
10 very broad word with a very large definition, and I am
11 not an economist so I won't attempt that definition.
12 It's very inprecise.

13 Demand is a part of economics and if the
14 demand is not there we are not going to go and do it.

15 Q. You just told me, as I understood --
16 or Mr. Nicks had, that their whole planning was driven
17 by MAD, that they were at the limit of their MAD and
18 that that was what drove their planning. Did I
19 misunderstand something you said, Mr. Nicks?

20 MS. CRONK: That was Mr. Ferguson's
21 evidence and in the course of --

22 Q. Mr. Nicks said it also. Mr. Ferguson
23 confirmed it.

24 MR. WADDELL: A. I think actually I said
25 it, I said it on behalf of E.B. Eddy.

1 MS. CRONK: I stand corrected, Madam
2 Chair.

3 MR. HANNA: I just wanted to know --

4 MR. FREIDIN: The evidence was not
5 that --

6 MADAM CHAIR: Address the Board, Mr.
7 Freidin.

8 MR. FREIDIN: Madam Chair, the evidence
9 was not that the MAD drives the harvest, it limits the
10 harvest.

11 MR. WADDELL: You are correct, Mr.
12 Freidin. The way I tried to express myself was that
13 our company, and I think from across the table we got
14 the same reaction, that most companies today are
15 bumping the upper limits of the MAD and, therefore, we
16 cannot go out and create more area to do silvicultural
17 work.

18 And therefore, even though our evidence
19 shows later on here that there was a shortfall in
20 silvicultural funding last year - we are hoping it's a
21 temporary thing - we can only use so much money, we can
22 only do so much artificial regeneration because we have
23 a limited area of cut-over to do it on.

24 I think this sentence at the bottom, what
25 that is simply saying is that we have the ability to do

1 that as compared to artificial -- pardon me, as opposed
2 to natural regeneration. We are not saying we are
3 going to go out and do it on another 10 or 15 or 20 per
4 cent of the area, because in most cases it's not there
5 for us to do it on. That is my interpretation of it.

6 MR. HANNA: Q. So you are saying, Mr.
7 Waddell, that you artificially regenerate virtually all
8 the land base that you have at the present time that is
9 suitable, that is being harvested?

10 MR. WADDELL: A. Yes, we do. We
11 artificially regenerate on our particular limits
12 because of our cover type, which is basically jack
13 pine, and the evidence before this Board that we have
14 put before this Board is that natural regeneration of
15 jack pine is singularly unsuccessful in the majority of
16 cases and we cannot rely upon natural regeneration of
17 jack pine, therefore, our company on our FMAs goes the
18 artificial route because jack pine is our preferred
19 species.

20 That is why our percentage of artificial
21 regeneration is so high compared to natural. We do not
22 wish to regenerate back to poplar if at all avoidable.

23 Q. Mr. Squires, is that your view also?

24 MR. SQUIRES: A. My view relevant to
25 which piece of geography, my own?

1 Q. We will start there, yes.

2 A. Yesterday I mentioned in our case
3 that we were artificially renewing somewhere between 35
4 to 45 per cent of the area varying up and down within a
5 five-year planning and within -- between twenty years.

6 That at the moment I feel is probably the
7 extent of artificial renewal that we will be carrying
8 out, yes.

9 Q. And why is that?

10 A. Partly because as in E.B. Eddy's case
11 we are at the peak of our, particularly our case the
12 spruceworking group, MAD we are utilizing it, so the
13 available area out there to treat mechanically with
14 equipment is limited and we are close to that limit
15 although probably not exactly at it.

16 There is more land out there possibly to
17 artificially treat, but we are satisfied with the level
18 we have now, provided it was fully funded and we worked
19 to that provincial level.

20 Q. So again, a hypothetical: If the
21 Ministry was to come to you and say you have twice as
22 much resources to artificially regenerate, you wouldn't
23 use it?

24 A. That's a fair statement.

25 Q. Mr. Waddell, I would like to turn to

1 Section 8.

2 MR. WADDELL: A. Section which, sir?

3 Q. Section 8, and spend some time --

4 A. Page, please?

5 Q. 130. Actually can we turn to page
6 131. I would like to deal first with the heading (a)
7 The Forest Estate, and point 1 under that indicates
8 that:

9 "Site preparation can have simultaneous
10 beneficial and detrimental effects on the
11 forest estate."

12 I wonder if you could explain to me what
13 you mean by beneficial and detrimental?

14 A. On certain sites there could be a
15 short-term detrimental effect from site preparation if
16 it were not carried out in a proper fashion, and I
17 stress short-term, but because it is creating a
18 situation that we can either seed or plant, it enables
19 us to carry out a renewal program and regenerate the
20 site which must be considered a beneficial effect.

21 Q. I know it isn't fair for me to say
22 that is somewhat abstract seeing my questions have been
23 somewhat abstract, but can you give that to me in a
24 little more specific example what you mean?

25 - A. Well, in a situation where, for

1 example, if the site preparation were a bit too heavy
2 and it did move too much of the mineral soil, you could
3 still go ahead and plant or seed which is in itself a
4 beneficial effect, but you may have lessened the
5 growth, the subsequent growth on those trees because
6 you have moved some of the soil into windrows or piles,
7 so you simultaneously got both effects.

8 That is of course why we have to stress
9 careful site preparation, not just site preparation
10 period.

11 Q. When you are referring here then to
12 detrimental effects, you aren't referring to effects in
13 terms of non-timber values?

14 A. Certainly there is possibilities that
15 certain aspects of site preparation can have some,
16 again, short-term detrimental effects on other users.
17 I would accept that. Some forms of site preparation
18 are aesthetically unattractive.

19 Q. So you would agree with me that there
20 is really a balance between the beneficial and
21 detrimental effects and it's very much a factor of the
22 type and intensity of renewal efforts that are applied
23 to a specific site?

24 A. I think I will have to get you to
25 rephrase that.

1 Q. Sure. Is it fair to conclude then
2 that you see there is a balance between beneficial and
3 detrimental effects and that that is very much a factor
4 of the type and intensity of renewal efforts and the
5 specific site?

6 A. Yes, I think that's a fair statement,
7 with the proviso that, in our opinion, in the vast
8 majority of cases the benefits of site prep
9 substantially outweigh the detrimental effects and they
10 are of a short-term nature, the detrimental effects.

11 Q. Okay. So that what you're saying to
12 me, in order to evaluate the beneficial and detrimental
13 effects one must use an appropriate temporal and
14 spacial context and that the appropriate temporal and
15 spacial context would be the forest management unit and
16 at least one rotation of the forest?

17 MS. CRONK: I am sorry. I am sorry,
18 there is three different questions rolled into one
19 there. None of it dealt with the answer Mr. Waddell
20 gave, it was a new proposition.

21 I don't take objection to it, but may I
22 ask the Board to direct that he put a question at a
23 time. I can't even get it down, let alone understand
24 what it means that the witnesses are being asked to
25 answer.

1 MADAM CHAIR: Please clarify the
2 question, Mr. Hanna, and go through it slowly for the
3 witnesses.

4 MR. HANNA: Q. Would you agree with me
5 that in order to evaluate the beneficial and
6 detrimental effects one must use an appropriate
7 temporal and spacial context.

8 MR. WADDELL: A. If you could clarify
9 for me what an appropriate temporal and spacial concept
10 is. It's not my normal language, I am not too sure
11 what you mean by that.

12 Q. That is my next part of the question.
13 Would an appropriate temporal and spacial context be a
14 forest management unit and at least one rotation of the
15 forest?

16 MS. CRONK: Well, I am sorry, Madam
17 Chair, the witness has asked for an explanation of the
18 term and he hasn't yet received one, and is now being
19 asked to acknowledge a particular definition of it.

20 MADAM CHAIR: Okay. Mr. Hanna, let's
21 stick with the forest management unit and the number of
22 years in the rotation. Now, what's the question again?

23 MR. HANNA: Would that be an appropriate
24 temporal and spacial context?

25 MADAM CHAIR: Okay. For what?

1 MR. HANNA: To evaluate the beneficial
2 and detrimental effects that are referred to in
3 paragraph 1 under the forest estate?

4 MR. WADDELL: I don't see what a forest
5 management unit has to do with temporal -- with your
6 word temporal.

7 MR. HANNA: Q. No, it doesn't. The
8 spacial has to do with the forest management unit,
9 temporal has to do with one rotation of the forest.

10 MADAM CHAIR: Are you saying, Mr. Hanna,
11 that you don't think you can assess the beneficial or
12 detrimental effects of renewal unless you look at an
13 entire forest management unit over an entire rotation?

14 MR. HANNA: I am asking the witness if
15 that would be, in his view, one context within which
16 that evaluation should be done.

17 Would that be the context within which he
18 would evaluate those effects?

19 MR. WADDELL: I thought my legal counsel
20 suggested we ask one question at a time here, and I am
21 still hearing two in your question there. Could you
22 rephrase it, please?

23 MR. HANNA: Q. Okay. When I say
24 temporal I mean time.

25 MR. WADDELL: A. Okay.

1 Q. When I say spacial I mean space.

2 A. Right. It's only when you put them
3 together that you are confusing me, because you are
4 talking about management unit and a rotation at the
5 same time.

6 Q. All right. Would an appropriate
7 temporal context be one rotation of the forest to
8 evaluate the beneficial and detrimental effects?

9 A. Well, in my opinion the detrimental
10 effects from site preparation -- is that what we are
11 talking about, site preparation exclusively here?

12 Q. I believe this refers to renewal.

13 A. Yeah, okay.

14 Q. It doesn't just deal with site
15 preparation it deals with renewal, it deals with site
16 preparation and regeneration.

17 A. Thank you. Regeneration, yes. Well,
18 no, it says various techniques used in preparing a site
19 for regeneration. So we are talking site preparation;
20 are we not. Which would you like to confine your
21 question to?

22 Q. I was actually looking at renewal as
23 a combined activity, but if you wish to deal with site
24 preparation --

25 A. It doesn't matter. You name it.

1 Q. Simply, I was dealing with renewal.

2 A. Right. Now please, again? I have a
3 short memory this morning.

4 Q. Thank goodness I have got this
5 written down. Would the appropriate temporal context
6 to evaluate these beneficial and detrimental effects be
7 a rotation of the forest?

8 A. Well, in my opinion - it is only my
9 opinion, I can't speak on behalf of the Industry on
10 this one - I think that since the benefits of renewal
11 or since the effects of renewal -- let me rephrase
12 that.

13 Since the effects of renewal is positive,
14 you can judge that on much less than a rotation, and
15 since the effects of renewal or the detrimental effects
16 of renewal, if there are any, are minimal, they are
17 very temporal and you do not have to judge that against
18 an entire rotation.

19 Whatever detrimental effects may arise,
20 if any, from the renewal program I believe they are
21 very short termed, so I don't feel that a rotation is
22 necessary in order to make a comparison of the
23 beneficial and detrimental effects.

24 Q. And what would be an appropriate
25 temporal context to evaluate the beneficial effects?

1 A. I would say establishing a free to
2 grow forest. At that time I think you have a measure
3 of the beneficial effects.

4 Q. And any detrimental effects,
5 particularly those on non-timber views, it's your view
6 that would be evident before that time?

7 A. Yes, they would be. I think if you
8 are thinking of other users here primarily, it may be
9 an outfitter or a tourist lodge that could be adversely
10 affected by the roads, for example, created in the area
11 and the renewal practices, and that is a very
12 short-term effect and mitigation measures can be put
13 into play as soon as the area is successfully
14 regenerated.

15 Q. So what you are saying, there are
16 some effects at least that you feel can be dealt with
17 in a very short time frame, but would you not agree
18 there are other effects, such as those in terms of the
19 long-term structure of the forest, that can only be
20 evaluated in a longer time context?

21 A. Well, I am not sure I can agree with
22 that. Maybe you could rearrange that question for me.

23 Q. Through renewal we establish a chain
24 of events that will perpetuate until the forest is
25 reharvested at least; correct?

1 A. Yes.

2 Q. So those effects will be apparent,
3 whatever effects are a consequence of that succession
4 will be apparent for at least a rotation of the forest?

5 A. I think that's a fair statement.

6 Q. And if any of those effects are
7 detrimental they will be apparent at least for a
8 rotation of the forest?

9 A. If, if there are any detrimental
10 effects they may or may not be apparent for the
11 rotation. They could be apparent for the first 10 or
12 20 years and then the situation could change and
13 they're no longer apparent and no longer detrimental.

14 The forest is a dynamic thing, it's not
15 static, and what may be a problem or a concern in 1990
16 in a particular stand will not be in the year 2000.

17 Q. The next paragraph on page 31
18 indicates:

19 "Regeneration treatments play a
20 predominantly positive role."

21 When I read that it suggested to me that
22 there had been some balancing of the beneficial and
23 detrimental effects across the entire area of the
24 undertaking, on the basis of that balancing a
25 conclusion had been reached; is that correct?

1 MS. CRONK: Before the panel answers the
2 question, could I address the Board about this whole
3 line of questioning with respect to Section 8.

4 I just want to make sure, really to make
5 two points. First of all, the passages to which Mr.
6 Hanna is now referring are quotes taken from the
7 witness statements of the MNR before the Board which
8 this panel and the OFIA/OLMA have formally endorsed.
9 That is the position of Mr. Waddell outlined to you in
10 the evidence-in-chief of this panel, that is the legal
11 position that I now confirm for you.

12 This panel has not undertaken, as Mr.
13 Waddell indicated, a separate effects analyses with
14 respect to renewal activities for the purposes of
15 presenting evidence to you on that issue.

16 With that in mind, I am not objecting, we
17 do not object to any question concerning the
18 observations and experience of these experts on the
19 effects of the renewal activities that the Industry
20 carries out, I don't object to that, but if the
21 questions are intended to parse each part of a quote
22 and to put to them whether studies were undertaken to
23 form these statements as conclusions, that is not what
24 this is; this is a quote from someone else's evidence
25 in respect of which an acceptance and endorsement has

1 been made.

2 There is a great deal of evidence behind
3 each of those statements contained in the MNR witness
4 statements which these witnesses have reviewed and the
5 OFIA has endorsed.

6 I am not sure whether that helps or not,
7 but what I am really saying is I am not sure how useful
8 the next hour, or however long it's going to be, for
9 these witnesses to be taken through before the Board
10 what underlies these statements when it's a great deal
11 of evidence that you have already received from MNR
12 witnesses.

13 So I just raise that for the, I hope,
14 assistance of the Board. I am having some trouble with
15 this.

16 MADAM CHAIR: Thank you, Ms. Cronk.

17 The Board agrees with Ms. Cronk, Mr.
18 Hanna. We have been through of course all of this with
19 the MNR witnesses.

20 What is particularly helpful to the Board
21 is if you could not talk in generalities in terms of
22 detrimental effects and benefits of all renewal
23 activities, but if you could select some specific
24 examples and question the witnesses on their experience
25 with those sorts of situations. We find that useful.

1 MR. HANNA: Madam Chair, could I address
2 you on two matters then?

3 Madam Chair, if I could address you on
4 two points.

5 First of all, I was fully cognizant of
6 the clarification that Ms. Cronk provided. I do
7 believe, however, because the Industry does state that
8 it agrees and endorses the statement that it is my
9 responsibility to the Board and to my client to explore
10 the basis for that endorsement, and if that endorsement
11 is simply: We read what the Ministry of Natural
12 Resources said, it seems all right to us, well that's
13 the answer and this will be very quick.

14 If there is other information that they
15 have available to them that leads them to this
16 conclusion and this endorsement, I want to find out
17 about that and I want to test that.

18 MS. CRONK: I have no objection to that,
19 Madam Chair, and that's why I said in my remarks to the
20 Board that if Mr. Hanna wants to put questions to the
21 witnesses based on their own experience and own
22 observations I took no objection. These witnesses have
23 a great deal of experience in carrying out renewal
24 activities and have a great deal of personal experience
25 in observing the effects of what they do.

1 That's quite different than what I
2 thought was a cross-examination as to the underpinning
3 of a quote. So I don't object to the questions that
4 are directly relevant to the experience of these
5 individuals.

6 MR. HANNA: Madam Chair, the second point
7 that I was trying to address was that you had asked me
8 to make specific reference to specific examples, and I
9 certainly appreciate that it's easier for the Board to
10 understand the point where I am going in that sort of a
11 context.

12 However, as you can appreciate, there are
13 two difficulties I face in doing that. First of all, I
14 am faced with a statement in this particular case that
15 says that regeneration treatments play a predominantly
16 positive role. I am faced with an undertaking the size
17 of 70 per cent of our province, I am faced with an
18 extremely general statement and I can't nail that down
19 until I ask the witness, what do you mean by that. And
20 my question was directed specifically at that: Well,
21 have you looked at the whole area of the undertaking,
22 what examples have you taken. I can't draw the
23 specific examples because it's not my conclusion.

24 I appreciate what the Board is saying and
25 I will attempt to do that, but when I am given general

1 statements that is the only way I have to approach
2 them. If I can get a specific example, then I can
3 follow through.

4 MADAM CHAIR: I think that will help the
5 witnesses, Mr. Hanna, if they know to respond to your
6 questions with examples of what they have done in the
7 past in their areas, I think that will be very helpful.

8 I don't have the impression that Mr.
9 Waddell could surmise that from the question that you
10 posed a short while ago.

11 MR. HANNA: Well, perhaps I will continue
12 but I was just saying to you that this is a problem
13 that we are faced with in this type of an application
14 where it is a class environmental assessment, where we
15 aren't dealing with a specific piece of land, we are
16 dealing with a broad range of effects, and we are
17 dealing with a process rather than effects per se, it's
18 very difficult to deal with an example that may well
19 not be representative and may well be atypical.

20 And I have here again a very general
21 statement that I am trying to nail down as best I can
22 and I will try to do it through my cross-examination.

23 MADAM CHAIR: Thank you, Mr. Hanna.
24 Would you like to proceed with the rest of this part of
25 the cross-examination now, or would you like to have

1 the lunch break.

2 MR. HANNA: No, I would prefer --

3 MADAM CHAIR: We plan to break at twelve
4 and come back at 1:30.

5 MR. HANNA: At twelve?

6 MADAM CHAIR: And come back at 1:30.

7 MR. HANNA: Okay. Ms. Swenarchuk has
8 indicated to me she has a matter she wishes to address
9 the Board on also.

10 I must admit, I have bogged down a bit
11 this morning. I thought I would be going more quickly
12 than I have. I expect I still be two hours after
13 lunch, given what I have achieved this morning.

14 So perhaps given that, it may be best for
15 Ms. Swenarchuk to deal with her matters and I continue
16 after lunch.

17 MADAM CHAIR: Well, we are not dealing
18 with any procedural matters until five o'clock.

19 We have given you permission to ignore
20 your May 15th deadline in terms of outlining your case
21 next week, but we are not going to make a regular habit
22 of listening to whatever the parties want to say at
23 whatever time of day.

24 MS. SWENARCHUK: This has to do with the
25 study that Mr. Nicks referred to yesterday and I think

1 our agreement was that I reserve the possibility of any
2 cross-examination on that study to today. I only have
3 one clarification on that matter.

4 The other matter to be dealt with at the
5 time that you prefer, Madam Chair, would be: I
6 understand Mr. Waddell began this morning to respond to
7 the undertaking that has been deferred to the time that
8 I was here.

9 Those were the only matters, save and
10 except to congratulate everyone on surviving two years
11 of the hearing.

12 MADAM CHAIR: Good.

13 MS. SWENARCHUK: So whether that can be
14 dealt with now or at 1:30, I would appreciate one of
15 those two, if that is acceptable to you.

16 And I have had a discussion with Mr.
17 Hanna --

18 MS. CRONK: I understood that Ms.
19 Swenarchuk was going to complete her cross-examination
20 on those two points today, so if that is acceptable to
21 the Board, I don't know whether you wish --

22 MADAM CHAIR: Mr. Hanna, will it
23 inconvenience you for Ms. Swenarchuk to do that at
24 1:30?

25 MR. HANNA: None whatsoever.

1 MADAM CHAIR: Mr. Freidin, you are
2 following Mr. Hanna in cross-examination this
3 afternoon?

4 MR. FREIDIN: Yes.

5 MADAM CHAIR: Let's come back at 1:30
6 then.

7 ---Luncheon recess at 12:00 p.m.

8 ---On resuming at 1:30 p.m.

9 MADAM CHAIR: Please be seated.

10 Mr. Hanna -- Ms. Swenarchuk, sorry.

11 FURTHER CROSS-EXAMINATION BY MS. SWENARCHUK:

12 Q. First of all, Mr. Waddell, I
13 understand that you had an answer to my interrogatory
14 that you started to give this morning. Would you mind
15 doing that now please?

16 MR. WADDELL: A. Yes, I do. I had our
17 people in Espanola look into what the 207 hectares on
18 Table 68 -- pardon me, on page 68, Table 3 and it is
19 shown as clearcutting under natural regen.

20 I am advised that this hectarage is made
21 up of a number of small stands of less than 8 hectares
22 in size, each one is less than 8 hectares in size, and
23 they did not receive any site preparation treatment,
24 they were adjacent to or surrounded by our other areas
25 that we did site prepare and artificially treated, and

1 they were not treated. So we isolated them in this
2 report, they were left for natural regeneration, likely
3 to white birch or poplar.

4 Q. Thank you.

5 A. May I also, Ms. Swenarchuk, inform
6 you of two other things. Yesterday I indicated to the
7 Board that in terms of our heavy site prep a cap in our
8 new groundrules -- our new draft groundrules that a cap
9 of 25 per cent had been placed on our groundrules
10 between ourselves and the Ministry. I had
11 misunderstood that situation and there is no cap in our
12 draft groundrules on heavy site prep. I apologize for
13 that.

14 The third thing also dealing with heavy
15 site pre, I believe you asked me what we felt the
16 number of hectares that we would do over the next five
17 years, I gave you an estimate of 1,500 hectares per
18 year.

19 I would -- after consultation with our
20 people, I would revise that down to 1,300 hectares.
21 That is our best estimate at this time of the annual
22 area that Eddy will do on the Upper and Lower Spanish
23 over the next five years in terms of our heavy site
24 preparation.

25 Q. Excuse me. Your estimate then for

1 heavy site prep in the Upper and Lower Spanish FMAs
2 over the next five years is how much?

3 A. About 1,300 hectares out of -- our
4 estimate is about 5,00 hectares per year, of which our
5 best estimate is about 1,300 hectares will be heavy
6 site prep and the balance will be lighter site prep.

7 Q. So the balance of the 5,000?

8 A. Yes.

9 MADAM CHAIR: That is 1,300 hectares per
10 year, Mr. Waddell?

11 MR. WADDELL: Pardon me?

12 MADAM CHAIR: That's 1,300 hectares per
13 year?

14 MR. WADDELL: Yes, out of the 5,000
15 hectares per year.

16 MADAM CHAIR: Yes.

17 MS. SWENARCHUK: Q. All right. Mr.
18 Nicks, my question then with regard to the paper that
19 was provided to me entitled: The Influence of Clearcut
20 Size on Frequency and Growth of Jack Pine Regeneration.

21 Madam Chair, Mr. Martel, as I indicated
22 this morning this is a paper that you will hear more
23 evidence about in our case. I don't propose to
24 cross-examine at length, but I do have one question for
25 clarification or further information of Mr. Nicks.

1 This paper has not been made an exhibit,
2 perhaps it would be appropriate to have an exhibit
3 number attributed to it now, Madam Chair.

4 MS. CRONK: I have copies, Ms.
5 Swenarchuk.

6 MS. SWENARCHUK: Oh, thank you.

7 MS. CRONK: I should indicate for the
8 record that what Ms. Swenarchuk has referred to as a
9 paper is the background documentation that she
10 requested Mr. Nicks provide, and it consists of a
11 two-page typewritten outline of what was done for the
12 survey and then back up documentation. (handed)

13 MADAM CHAIR: That will be Exhibit 1156.

14 ---EXHIBIT NO. 1156: Document entitled: The Influence
15 of Clearcut Size on the Frequency
16 and Growth of Jack Pine
 Regeneration by B.D. Nicks.

17 MS. SWENARCHUK: Excuse me, Madam Chair?

18 MADAM CHAIR: 1156.

19 MS. SWENARCHUK: Thank you.

20 MADAM CHAIR: And the title of that paper
21 is: Influence of Clearcut Size on Frequency and Growth
22 of Jack Pine Regeneration, the author is B.D. Nicks.

23 MS. SWENARCHUK: Q. Mr. Nicks, if you
24 would turn to about the sixth page in and it's page 2
25 of the proposed survey format.

1 Paragraph 2 on that page indicates that
2 amongst the instructions provided on this survey was to
3 ensure site conditions and treatment history are
4 uniform within each individual area and that
5 substantial blocks of uncut timber surround them.

6 And I was not able to see in the
7 documentation a description of the site conditions of
8 the two areas. I wonder if you have that either now or
9 if that could be provided to us in documentation, the
10 site conditions and treatment history?

11 MR. NICKS: A. I can't speak for the CP
12 study in terms of site documentation, I am not familiar
13 with the site personally, but one of CP's experienced
14 management foresters was responsible for selecting the
15 site. I understood fully the requirements of the
16 survey and in my conversation with him I recall him
17 assuring me that the site conditions were uniform on
18 the site, but I am afraid I don't have any data to
19 support that.

20 As for the E.B. Eddy survey, I personally
21 conducted the survey along with my forest technician
22 and we sampled soils with a soil auger at intervals of,
23 as I recall, 10 chains along each line across the site
24 and we detected no significant variation in soils from
25 the category of deep, fresh, well-drained fine sands,

1 and so my statement to you is that the site conditions
2 in our site, E.B. Eddy's survey were uniform.

3 Q. Yes. Actually the question I am
4 asking has to do with the specifics of the site
5 conditions. You are indicating that the soils were
6 deep, fresh, well-drained fine soils --

7 MR. HANNA: Sands.

8 MS. SWENARCHUK: Q. Fine sand. What
9 about the treatment history?

10 MR. NICKS: A. The treatment history was
11 absolutely uniform on the site that we surveyed. It
12 was an MNR plantation, I believe it was site prepared
13 with a disk trencher, passive disk trencher and it was
14 planted to container stock with the paper removed to
15 maximize the growth rate.

16 There were no substantial differences of
17 any kind that I could observe on the site. It was
18 flat, the areas we surveyed were without any form of
19 aspen competition that would confound the data.

20 Q. What was the treatment history in the
21 sense of what had the stand been before and what type
22 of harvest was done?

23 A. Well, there my understanding is a
24 little, I have to admit a little weak. I am fairly
25 certain it was a jack pine type before it was

1 harvested, I am not absolutely sure because this was an
2 MNR project on the Spanish River Crown Management Unit
3 which is immediately below our Lower Spanish Forest,
4 and the reason I had to go there is because I couldn't
5 find a large clearcut with a well-defined edge on our
6 FMAs, and this was conveniently a disturbance in the
7 centre of a much larger area of mature timber that
8 would fit the requirements very well.

9 Q. So you don't know when the harvest
10 occurred then?

11 A. I would estimate the harvest occurred
12 not more than two years previous to the treatment.

13 Q. And you don't know either how the
14 harvest was carried out?

15 A. It was carried out by contractors
16 likely supplying our mill with wood using a
17 conventional clearcut approach.

18 Q. And I wonder, would it be possible to
19 obtain the same degree of information about the other
20 site? I wonder if you could make an enquiry of CP
21 Forest Products with regard to site conditions, meaning
22 the soils and topography of the site and treatment
23 history, including both the renewal treatments and the
24 harvest, and the stand that was there at the time of
25 harvest, those kind of details?

1 A. I should have no trouble in
2 determining that for you.

3 Q. Would you attempt to verify with the
4 Ministry the treatment history on your own site; that
5 is, on the site of the area that you studied?

6 A. Well, this was a year and a half ago
7 and my recollection is I discussed the matter with the
8 Crown under the forester at the time in terms of
9 selecting an area, but I am just a little unclear as to
10 how much discussion we had about the treatment history
11 and the pre-cut stand conditions. I would have to
12 check with him and look through his records.

13 Q. All right. Fine, thank you.

14 A. Okay.

15 MS. SWENARCHUK: Thank you, Madam Chair.

16 MADAM CHAIR: Thank you, Ms. Swenarchuk.

17 MS. CRONK: Madam Chair, there was
18 another -- I am sorry, there was another undertaking
19 outstanding from yesterday. I don't know if Mr. Nicks
20 is in a position to respond to it now, but you will
21 recall Ms. Swenarchuk had related to Table 3 in the
22 statement of evidence and there was a breakdown, as I
23 recall it under my note in front of me, concerning the
24 nature of the natural regeneration component of that
25 table.

1 MR. NICKS: -Would you like me to carry
2 on?

3 MS. SWENARCHUK: Are you able to provide
4 that one?

5 MR. NICKS: Yes, I am. I am happy to say
6 we have a table which breaks down the natural
7 regeneration evidence on Table 3 according to the
8 regeneration method.

9 MADAM CHAIR: What page is Table 3 on,
10 Mr. Nicks?

11 MR. NICKS: I am sorry, Madam Chair?

12 MS. SWENARCHUK: 124, Madam Chair.

13 MADAM CHAIR: 124. Thank you.

14 MR. NICKS: And perhaps it would be
15 acceptable for me to distribute these.

16 MADAM CHAIR: Yes, please. Shall we make
17 this an exhibit?

18 MS. SWENARCHUK: (handed)

19 MADAM CHAIR: Thank you. This will be
20 Exhibit 1157, a table entitled: Breakdown of Natural
21 Regeneration Methods outlined in Table 3, page 124 of
22 the OFIA Panel 8 statement of evidence.

23 ---EXHIBIT NO. 1157: Table entitled: Breakdown of
24 Natural Regeneration Methods
outlined in Table 3, page 124,
25 OFIA Panel 8 Statement of
Evidence.

1 MR. NICKS: I should perhaps clarify
2 this, the most recent Exhibit No. 1157 pertains to only
3 the top half of Table 3 since that was the nature of
4 the request, breakdown of natural methods.

5 MS. SWENARCHUK: Q. Harvest cut then
6 refers to -- am I correct in assuming these are areas
7 that were harvested presumably by conventional
8 clearcutting methods and no further treatment; is that
9 what that means?

10 MR. NICKS: A. That is my understanding
11 of it, yes.

12 MS. SWENARCHUK: Thank you.

13 MADAM CHAIR: Mr. Hanna?

14 CONTINUED CROSS-EXAMINATION BY MR. HANNA:

15 Q. Mr. Waddell, I would like to go back
16 to where we left off before the lunch break, and I am
17 looking at page 131, the second paragraph under forest
18 estate.

19 MR. WADDELL: A. Second paragraph?

20 Q. Under the forest estate section
21 there.

22 A. Okay.

23 Q. And I would like to know the basis
24 for the Industry endorsing the position that
25 regeneration treatments play a predominantly positive

1 role, and I gather this is over the area of the
2 undertaking?

3 A. I don't know how to answer that, it
4 seems so apparent. Regeneration is the way by which a
5 new forest is created following a cut-over. If
6 regeneration treatments aren't carried out, then in
7 many cases we will not get back a desirable forest
8 component.

9 I just haven't had anybody suggest that
10 regeneration treatments are anything but positive.
11 What we are saying is that they are a positive
12 treatment to minimize any potential effects from
13 harvesting or any other type of disturbance.

14 Q. Well, Mr. Waddell, with all respect,
15 in the very paragraph above that it's indicated that
16 regeneration can have negative effects, detrimental
17 effects.

18 A. On a short-term, some.

19 Q. So it has been suggested to you --

20 MS. CRONK: I am sorry, that's not
21 correct. The previous paragraph refers to site
22 preparation, the second to regeneration.

23 MR. WADDELL: What this second paragraph
24 says is regeneration treatments play a predominantly
25 positive role.

1 Q. I guess it's the predominantly that I
2 am referring to, it isn't an absolutely positive role.
3 And would you agree with me that these regeneration
4 treatments can, if responsibly applied, achieve
5 beneficial effects in terms of forest renewal?

6 MR. WADDELL: A. Of course.

7 Q. But it's difficult to conclude across
8 the entire area of the undertaking whether or not that
9 will be positive or negative without having determined
10 (1) what techniques will be applied, their level of
11 intensity - I hate to say this - but their spacial and
12 temporal pattern, et cetera; is that correct?

13 A. No, I won't agree with you on that.
14 I go back to my original statement. You have a
15 cut-over forest, a burned forest, a forest where you
16 have had a disturbance due to windfall, what can be
17 more positive than carrying out regeneration treatments
18 to get a forest cover back on that area.

19 Q. Yes.

20 A. But I don't think you have to wait to
21 a rotation or any other period of time. As I suggested
22 this morning, a free to grow time period, that would be
23 ample to make an assessment that there is positive
24 benefits from your renewal treatment.

25 Q. But because the renewal treatment

1 affects the structure of the forest and different
2 structures may be positive for some user groups and not
3 so positive for other user groups, in that sense, if
4 you will, they will in all cases be positive, in some
5 cases more positive than others from certain groups'
6 perspective?

7 A. Would you rephrase that, please?

8 MADAM CHAIR: Excuse me for a minute.

9 Mr. Hanna, would you give the Board an
10 example of a benefit that isn't positive from
11 regeneration for a group?

12 MR. HANNA: Certainly. I believe it has
13 come up in cross-examination, it certainly came up in
14 Panel 15, I believe it came up before that - I can't
15 refer to the specific panel at this moment - where we
16 have say a mixed wood site and through renewal efforts
17 that site is converted to a conifer-dominated site, and
18 I believe through the cross-examination of Mr. McNicol
19 and Mr. Hogg that they agreed that often those mixed
20 wood sites are of significant importance in terms of
21 wildlife.

22 So if you convert a stand through renewal
23 efforts from one that may have a high wildlife value to
24 one that has a lower wildlife value, that would be in
25 my view a detrimental effect, at least with respect to

1 that element of the environment.

2 MADAM CHAIR: Yes. The evidence was that
3 it benefits some types of wildlife and not other types
4 of wildlife.

5 MR. HANNA: Right. And so the
6 detrimental effect would be for those species of
7 wildlife that depend upon those mixed wood sites.

8 And I believe Mr. Hogg's evidence was -
9 and I can't be certain about Mr. McNicol - was that
10 generally you will find the richest if you will
11 wildlife communities associated with those mixed wood
12 sites,

13 MR. FREIDIN: And, Madam Chair, to make
14 the record complete, I think the evidence was quite
15 clear that that effect would be local in nature and to
16 determine whether in fact it had any significant effect
17 on viable populations or on management objectives you
18 have to look at much broader than the local effect of
19 any particular cut-over.

20 MR. HANNA: Q. And I take it, Mr.
21 Waddell, you don't agree with that view?

22 MR. WADDELL: A. With the view Mr.
23 Freidin expressed?

24 Q. No, no, the view that I just
25 described to you in terms of the fact that renewal can

1 in some cases not lead to positive impacts in terms of
2 certain forest uses?

3 A. I guess it's on a matter of scale
4 when we have to assess that question. I am not
5 prepared to give an unqualified agreement to your
6 question, sir, because in my mind I have to agree
7 completely with what legal counsel for the Ministry has
8 said there, and I don't think that you can take it out
9 of context and look at one small area.

10 I don't believe any evidence has been
11 presented, for example, to show that the moose
12 populations are suffering because of the transition of
13 some mixed wood stands to stands with a higher
14 component of conifer. That is not my understanding of
15 the moose situation in Ontario.

16 Q. Well, Mr. Waddell, I think you will
17 appreciate not all the evidence is in yet, but I think
18 the point is - and this harkens back to what I was
19 saying to you before lunch in terms of appropriate
20 spacial context - and, as I understand what you are
21 telling me now, is in looking at these sort of impacts
22 you can't look at just the stand, that you have to look
23 at the forest management unit as a whole?

24 A. At least.

25 Q. Is that what you're saying to me?

1 A. Yes I am, at least the forest
2 management unit as a whole, to look at one township is
3 not appropriate. You may have that situation occurring
4 in one place in one township, but you must look at the
5 whole land mass, and I don't know whether one FMA is
6 appropriate or whether you would have to go to a
7 greater distance than that, but it certainly is not
8 appropriate to look at a few stands and say because you
9 have converted these from a mixed wood to stands with a
10 higher component of softwood that you had a detrimental
11 effect.

12 Q. Can we look now at page 131, the
13 third paragraph under forest estate. I just want to be
14 clear here. I realize this is a quote from the
15 Ministry, but I want to make sure that in endorsing
16 this statement your interpretation of the statement is
17 the same as mine.

18 I am looking particularly at the last
19 sentence there that says that:

20 "These treatments..", I believe they are
21 referring to artificial regeneration treatments:

22 "...are key in maintaining or enhancing
23 the multiple benefits and yield from the
24 forest indefinitely."

25 And I want to ensure that your

1 interpretation and your endorsement of this statement
2 is that these multiple benefits referred to are
3 non-timber values.

4 A. I am not sure they are entirely
5 non-timber values.

6 Q. Okay. I didn't say exclusively
7 non-timber values. Are you including in there
8 non-timber values?

9 A. In the sense that employment is a
10 non-timber value, I include it.

11 Q. I hear what you are saying. I am
12 referring here specifically to those benefits that are
13 not directly tied to the forest industry, such as
14 employment?

15 A. In northern Ontario there are very
16 few benefits that are not directly tied to the forest
17 industry, sir. So I can't separate that in my mind.

18 Q. Okay. Well, benefits in terms of
19 wildlife.

20 A. So, I am sorry, what is the question?

21 Q. When I see the words here, enhancing
22 multiple benefits, would you include in there benefits
23 such as wildlife?

24 A. I would think, yes.

25 Q. So renewal is a management tool not

1 only to achieve timber management objectives but it's
2 also a tool to achieve other objectives from the forest
3 land base; is that not what is being said there?

4 A. It is used primarily to achieve the
5 benefits of forest renewal, with that comes a host of
6 secondary benefits. Without the renewal, the other
7 benefits do not accrue; without forest management
8 activities, the other benefits do not accrue.

9 Q. Can we look now to the next section
10 which is terrestrial wildlife. Now, again this may
11 sound like a rather trite question, but what falls
12 within your definition of wildlife as used in this
13 context here?

14 MS. CRONK: Well, first of all, Madam
15 Chair, again it's a quote and the context in which that
16 language is used flows from the document from which
17 it's quoted.

18 If Mr. Hanna wishes to ask Mr. Waddell
19 for his view of the meaning of wildlife, I take no
20 objection; if he's asking him what it means in the
21 context of that paragraph, he's going to have to go
22 back and take a look at where it was quoted from.

23 I don't even remember now frankly if it
24 was defined, but it comes from the MNR panel statement
25 of evidence, Panel 11. So it's inappropriate, it seems

1 to me, without going back to that document to ask him
2 what was meant when it was used in this way.

3 If he wants his own personal view, I take
4 no objection.

5 MR. HANNA: Madam Chair, I am not going
6 to ask for what I said to be read back at this point,
7 but I did not ask what the context was that was used in
8 the report, and to avoid any future objections by my
9 friend, I am not asking these witnesses in any way
10 whatsoever their interpretation of what was meant by
11 the Ministry of Natural Resources.

12 It's my understanding that the forest
13 industry has endorsed these statements and I am
14 exploring with them what their interpretation of the
15 statements is when they endorsed it, so that I have a
16 clear understanding of the endorsement that they are
17 giving, not in any way - and if they want to
18 disassociate themselves totally with the document this
19 came from, I have no problem with that. I want their
20 opinion and their endorsement, and that is where I am
21 coming from.

22 Q. Now, can I ask you the question
23 again, Mr. Waddell. In terms of your endorsement of
24 this statement or the statements that fall under
25 terrestrial wildlife, can you tell me what definition

1 of wildlife you were using?

2 MR. WADDELL: A. Well, I can't tell you
3 what definition of wildlife we were using because it is
4 a direct quote. If you ask me what my definition of
5 that -- of wildlife is, I would be happy to try to
6 explain it. I do not know exactly how the Ministry
7 might have defined it.

8 Q. I am not asking you that question,
9 that was the point that I just made to the Board. I am
10 not asking you to tell me what you feel the Ministry's
11 interpretation is.

12 Perhaps just to make this simpler, do you
13 see in your definition of wildlife not only, how should
14 I say, the animal kingdom but the plant kingdom?

15 A. No, I do not. I see the animal
16 kingdom as what is covered in that category.

17 Q. Okay. Have I missed something in
18 this witness statement, or is there somewhere you
19 discuss the impacts of renewal activities on plant
20 communities other than commercial timber?

21 A. Well, we did not attempt to write a
22 section here that was all embracing, what we did was
23 select portions of the Ministry's witness statement
24 with which we were in full concurrence and we have
25 quoted them here.

1 There may be items that we did not
2 include and possibly we should have included, but these
3 are the items that we selected from MNR's witness
4 statement with which we could totally agree. There is
5 some reference to vegetation in B(5).

6 Q. I am sorry in...?

7 A. B(5) under terrestrial wildlife, in
8 particular relation to the habitat needs of wildlife.

9 Q. Yes. Yes, I understand.

10 A. That would appear to be the only
11 reference in this section.

12 Q. Madam Chair made the comment that
13 some forest structures favour some wildlife species and
14 other forest structures favour other wildlife species,
15 and I expect you agree with that; do you?

16 A. Yes, I do, and we have said that
17 that's a direct quotation from the Ministry's witness
18 statement. We concur with that.

19 Q. So looking at this from the point of
20 view of having input to renewal prescriptions from the
21 point of view of wildlife, is the question then not the
22 abundance of various wildlife species that are desired
23 by the public from the forest land base; is that not
24 the nub of it?

25 - A. I am sorry, I have lost you.

1 Q. Well, we know that if we go one way
2 there is always some species that is favored?

3 A. Yes.

4 Q. If I go to a straight jack pine
5 plantation there will be wildlife species that will
6 prefer that--

7 A. Yes.

8 Q. --habitat, and if I go to a mixed
9 wood stands, there will be other wildlife species in
10 effect that could prefer that.

11 Now, the question is, is the mix, how
12 much of each do we want. So we have to make some
13 statement of how much of the various wildlife
14 populations that we want to sustain from the land base
15 in order to provide some direction in terms of how to
16 manage that forest structure. Would you not agree with
17 that?

18 A. Well, my understanding of the way
19 wildlife is managed by the Ministry is that we go into
20 the featured species situation and the featured -- my
21 understanding is that the habitat requirements are
22 accommodated, for the featured species that we are
23 looking after, something like 70 or 75 per cent of the
24 wildlife situations.

25 I don't believe that you can manipulate

1 the forest in all areas to look after 100 per cent of
2 the different species of wildlife.

3 Q. So from your point of view you see
4 the featured species approach as being a practical way
5 to manage that kind of a problem?

6 A. Well, let me put it to you this way:
7 That is the system that we are in in Ontario. At the
8 moment that is the way our management plans have been
9 drawn up, that is the way our areas have been allocated
10 with moose corridors, moose motels, moose hotels, and
11 many, many reserves for moose, and if the Ministry's
12 presumption there is correct, that that will take care
13 of 70 or 75 per cent of the wildlife -- different
14 species of wildlife, then that is the system we are in
15 in Ontario right now, and I think my opinion on it is
16 irrelevant. That is the system we are living under. I
17 am not biologist.

18 Q. I understand that, but we have a
19 board here that has some power to make some sort of a
20 determination on that management approach, and I am
21 asking you as a professional forester practising in the
22 field, is that a manageable and practical approach from
23 your point of view as an Industry forester, the
24 featured species approach?

25 A. Sir, I would like to advise you

1 better in five years time after we've had some
2 experience with this. We are just -- as of April 1st,
3 1990 we are just starting a new timber management plan.
4 We are now in the process of delineating these moose
5 habitat requirements on the ground and it's certainly
6 going to impact in many ways on our operations.

7 And I can't really give you an opinion
8 right now as to how practical it is from an operational
9 point of view or a biological point of view.

10 Q. I am sorry.

11 A. Excuse me. I was just going to say
12 this is something very new for us. Prior to this
13 period of time we were simply into the normal area of
14 concern, marking for moose along lakes and rivers and
15 streams and this sort of thing. Now we are into a
16 totally different concept and, as a result of that -
17 and I can tell you that on our own forest management
18 agreements it has increased the area set aside for
19 reserves or areas of concern from approximately 7 per
20 cent in the past five years to up to nearly 15 per cent
21 in the period from 1990 to 1995, and that is the way
22 that we are attempting to manage for the featured
23 species.

24 Q. Would you prefer to see a greater
25 number of featured species for you to have to consider

1 in developing your timber management plans?

2 MS. CRONK: Well, Madam Chair, Mr.
3 Martel, surely we are now drifting back into the
4 planning kind of issues to which I took objection this
5 morning.

6 You are going to hear evidence, as you
7 know, on the Industry's Panel 10 at some length about
8 this. Mr. Waddell wasn't qualified as a planning
9 expert. It seems to me -- frankly, I think the last
10 question crossed the line too but I didn't want to
11 rise, but now it's question 2 so I rise.

12 MR. HANNA: I will accept Ms. Cronk's
13 objection, Madam Chair.

14 MADAM CHAIR: Mr. Waddell, the figure you
15 gave us of 15 per cent for reserves in the 1990-95
16 timber management plan--

17 MR. WADDELL: Yes?

18 MADAM CHAIR: --does that include all
19 areas of concern and all reserves for all guidelines?

20 MR. WADDELL: Yes, it does, that is
21 within a per cent or so.

22 MADAM CHAIR: Yes. All right.

23 MR. WADDELL: Yes. And that's in the
24 Upper and Lower Spanish Forest.

25 MADAM CHAIR: Thank you.

1 MR. HANNA: Q. Perhaps the other thing
2 we should just clarify there, Madam Chair, you raise
3 it. That's 15 per cent of the total management unit
4 area, or 15 per cent of the area allocated for harvest?

5 MR. WADDELL: A. That's 15 per cent of
6 the area within the area allocated for us in the next
7 five-year period.

8 Q. Mr. Waddell, I would like to look now
9 on page 132, Section D, the socio-economic environment.
10 Do you have any training in socio-economic impact
11 assessment?

12 MR. WADDELL: A. None whatsoever.

13 Q. Do any of the other members of the
14 panel have?

15 (no response)

16 I take it though that this is a statement
17 you have endorsed with respect to the forest industry;
18 correct, these statements under socio-economic
19 environment?

20 MR. WADDELL: A. Yes, we have.

21 Q. Paragraph No. 9 indicates that:

22 "Socio-economic effects can usually be
23 prevented or minimized by the application
24 of professional forestry practice."

25 What do you mean by professional forestry

1 practice in this context?

2 MS. CRONK: Same objection as previously,
3 Madam Chair, it's a quote.

4 MR. HANNA: Q. What do you mean by the
5 term professional forestry practice as used in this
6 context that you have endorsed in your endorsement?

7 MS. CRONK: I think the question that
8 would help my friend is: What do you understand the
9 term to mean.

10 MR. HANNA: No, I do not want that
11 question. The question I want is the reason that this
12 man has come forward and has endorsed this comment and
13 I want to know, in endorsing this statement, what he is
14 meaning by professional forestry practice.

15 MR. WADDELL: I would take professional
16 forestry practice to mean that the professional
17 forester on the site uses the best information
18 available to him, his technical competence, his
19 experience and his expertise to assess the particular
20 type of equipment and silvicultural prescription for
21 that site to minimize any adverse impact that might
22 occur on that particular site.

23 And obviously depending upon the site,
24 there is a wide variety of equipment and so forth that
25 could be used on it, and in his professional judgment

1 he will select the technique and the equipment that
2 best minimizes any impact.

3 MR. HANNA: Q. Have you or any other
4 member of the panel ever attempted to undertake any
5 type of comprehensive socio-economic impact assessment
6 of the effects of a specific forest renewal project or
7 even more a timber management plan in sum?

8 A. Or even more which?

9 Q. Even a timber management plan in
10 total?

11 A. I am not sure what you mean. I am
12 not sure I know what you mean by socio-economic study
13 of it. Would you care to define that for me, please?

14 Q. Well, I think the fact that you don't
15 know perhaps is the answer. Is anyone else in a
16 position to answer the question.

17 (no response)

18 MS. CRONK: If I can help my friend, no
19 one on this panel did a study of that kind, to my
20 knowledge.

21 MR. WADDELL: I think we are all aware of
22 the consequences to our communities if we don't do an
23 adequate renewal program.

24 MR. HANNA: Q. I would like now to move
25 to what I hope is the last topic, and that is Section

1 9. This has to do with the discussion of the new
2 timber production policy and I believe, Mr. Waddell,
3 this is the section you are responsible for?

4 MR. WADDELL: A. Yes, sir.

5 Q. I won't say whether you are lucky or
6 unlucky. Now, I take this section as arguing for the
7 need for a new timber production policy in the
8 province; is that correct?

9 A. Very definitely, sir.

10 Q. Now, a common or certainly a familiar
11 semantical difference is apparent in the terms used
12 here and the 1972 policy and; that is, the 72 policy
13 was a forest production policy and you are proposing a
14 timber production policy.

15 Do you see any significance in the words
16 forest and timber in this context?

17 A. The timber production policy that we
18 are recommending would deal with strictly that, a
19 production policy that would indicate the wood
20 requirements for this province in the future and would
21 identify the renewal program necessary to achieve that
22 and identify the funding necessary to achieve the
23 desired renewal program.

24 It was called a forest production policy
25 in 1972 and I can't give you any reason why it was

1 called a forest production policy then.

2 Q. On page 135 at the top of the page
3 you indicate that:

4 "The need for revised timber production
5 policy was confirmed by Dr. Baskerville
6 in his audit."

7 Correct?

8 A. That's right.

9 Q. And that is found in pages 64 and 65
10 of Exhibit 16; is that correct?

11 A. I guess from the bottom footnote
12 there I can take that, yes. I haven't got a copy of
13 the report in front of me. I would assume our
14 quotation is correct.

15 MR. HANNA: I am just wondering, Madam
16 Chair, what to do here? Again, I did not know that
17 material was referenced in a witness statement. I
18 should have given prior notice to it, especially when
19 it takes such a form as this, as a major support for a
20 whole section of the witness statement.

21 MS. CRONK: Well --

22 MR. HANNA: It only takes -- there is
23 only two pages here and it will only be two pages in
24 the audit that I will be referring to. If you wish, I
25 can make photocopies of it.

1 MS. CRONK: Mr. Hanna, can I just try to
2 help here. Mr. Martel is holding up a document. My
3 bet is it's the right exhibit.

4 MR. HANNA: I wouldn't take that bet.

5 MR. MARTEL: (handed)

6 MS. CRONK: Thank you very much. Mr.
7 Waddell. (handed)

8 MR. WADDELL: Thank you.

9 MADAM CHAIR: What are your questions
10 going to be, Mr. Hanna, with respect to -- what are
11 your questions going to be with respect to this issue?

12 MR. HANNA: Madam Chair, the thrust of my
13 questions here are that in reading what Dr. Baskerville
14 has proposed in the audit and looking at what is
15 proposed in this witness statement, Section 9, I see a
16 certain divergence and the divergence is this, and in
17 fact Mr. Waddell has just summarized it quite nicely.

18 As I understand what is being stated in
19 the witness statement, is that the Industry is
20 advocating a timber production policy that deals with
21 wood requirements and renewal requirements solely, and
22 as I read Dr. Baskerville I believe he is advocating a
23 more comprehensive policy that deals not solely with
24 wood requirements and renewal requirements but deals
25 also with requirements of other forest users from the

1 land base.

2 And that is the area that I wish to
3 explore with Mr. Waddell.

4 MS. CRONK: I would only point out, Madam
5 Chair and Mr. Martel, before we head into this area
6 that there have already been Industry witnesses who
7 have dealt at length with this on the wood supply panel
8 and they were subject to cross-examination by all the
9 parties here.

10 The evidence that you have heard from
11 this panel is the need for a new timber production
12 policy - and that can be explored, what they mean by
13 that - in the renewal context, and if questions are put
14 in that vein I will have no objection; if they are put
15 on issues beyond that, I will.

16 MR. FREIDIN: Madam Chair, it could have
17 an impact on the case that has already been put in by
18 the Ministry and possible reply evidence.

19 Dr. Baskerville was called, Dr.
20 Baskerville was examined on what he meant or the
21 opportunity was there for him to be asked what he meant
22 by that clause and we have Dr. Baskerville's evidence
23 on that the best we are going to get it.

24 I don't think it's appropriate to have
25 Dr. Baskerville's evidence paraphrased and put to the

1 witnesses.

2 The witnesses can be asked whether they
3 think a forest production policy or something which may
4 be different than that timber production policy that
5 they are recommending may be good or bad, but not put
6 in the context of characterizing what Dr. Baskerville
7 may or may not have meant.

8 We have been around that whole area back
9 in September and I don't want to get back into that
10 again.

11 MR. HANNA: Madam Chair, I have no
12 intention of paraphrasing. The only paraphrasing I did
13 was for the Board in explaining where I was going in my
14 cross-examination in terms of this panel.

15 I have no intention of asking them their
16 interpretation of Dr. Baskerville's section. They have
17 used it as support for a section in their witness
18 statement. They have gone to considerable length to
19 talk on this matter, it's the first place that I know
20 that this has been dealt with in an explicit way as
21 shown here, and even if it has been dealt with
22 elsewhere in a explicit format, this is the evidence
23 that this panel is presenting and I have a right and
24 duty to this Board to explore that and test it, and
25 that is what I am intending to do.

1 MADAM CHAIR: Let's start with your
2 questions, Mr. Hanna.

3 MR. HANNA: Q. And, Mr. Waddell, if you
4 don't feel that you can answer the questions you can
5 simply say no, you have no answer.

6 MR. WADDELL: A. Thank you.

7 Q. Now, the heading that is shown on
8 page 64 is not a timber sector strategy and it's not a
9 timber production policy, it's a forest sector
10 strategy. Does that have any significance to you, Mr.
11 Waddell?

12 MR. WADDELL: A. No, it doesn't.

13 Q. I don't see anything in 64 or 65 that
14 indicates that a new forest sector strategy should be
15 anything but what this Industry is proposing; in other
16 words, a strategy to identify the future wood targets
17 of this province and how we are going to get there.
18 Okay.

19 Well, let's just explore that a bit. On
20 page 135 you state:

21 "Paraphrasing Dr. Baskerville, in the
22 audit it was suggested that there
23 is an urgent need for a realistic
24 analysis of what the Crown forest can
25 produce."

1 Do you see that?

2 A. Yes, I do.

3 Q. And this is extracted from the last
4 paragraph on page 64.

5 A. Yes.

6 Q. Do you see that?

7 A. Yes, I do.

8 Q. And I take it that you see Dr.
9 Baskerville saying here what the Crown forest can
10 produce, that you have interpreted that to mean only
11 timber and not the multiple benefits that the forest
12 can produce?

13 A. Yes, I have. We are talking about a
14 timber production policy here.

15 Q. I understand.

16 A. Not how the forests are going to be
17 managed for anything else, that will flow. And I might
18 add, that the public will have input into this.

19 Q. Now, is one of the key messages that
20 Dr. Baskerville is providing here is the need for a
21 bottom up analysis, in fact that's his words; is it
22 not?

23 A. Yes, it is.

24 Q. And I take it you agree with that?

25 A. One hundred per cent.

1 Q. And a primary reason for this is to
2 ensure that the provincial and regional targets finally
3 established are biologically necessary and feasible;
4 correct?

5 A. Correct.

6 Q. And this can only be established by
7 looking at the actual forest structure on the various
8 management units?

9 A. Correct again.

10 Q. On page 65 on the first full
11 paragraph --

12 ---Discussion off the record

13 MADAM CHAIR: Pardon me, Mr. Hanna.

14 MR. HANNA: Q. On page 65, Mr. Waddell,
15 in the first full paragraph Dr. Baskerville makes
16 mention to the need to undertake a realistic analysis
17 of production possibilities.

18 Are you familiar with the term production
19 possibilities as Dr. Baskerville used them?

20 MR. WADDELL: A. Sorry, I am lost.

21 Q. The first full paragraph there about
22 the middle.

23 A. I have it, thank you. Just give me a
24 minute. well, I am not sure what Dr. Baskerville means
25 by production possibilities.

1 Q. I take it then that you haven't read
2 the evidence that he presented when he dealt with that
3 when he was here before the Board?

4 A. No, I have not.

5 Q. Can you take it from me, subject to
6 check and perhaps objection by my friend, that what he
7 means by --

8 MS. CRONK: I will object now. I don't
9 want any characterization of Dean Baskerville's
10 evidence to these witnesses when Mr. Waddell has said
11 he doesn't know what the evidence was.

12 If it's in this document that's fine,
13 Madam Chair, I take no objection; if it's based on his
14 oral evidence, then I object to that.

15 MADAM CHAIR: I don't know where we are
16 going to go with this, Mr. Hanna. We have here the
17 interpretation of what these words, the quotes from
18 Dean Baskerville mean to the Industry in terms of
19 looking only at a timber production policy.

20 The Board has heard several weeks of
21 evidence from Dean Baskerville and we have a very clear
22 sense of what he means by forest production.

23 MR. HANNA: I understand your concern,
24 Madam Chair. Really what I want ultimately to deal
25 with is the next part of that paragraph where it says:

1 "The evaluation of the best total
2 response for timber production, wildlife,
3 et cetera has not been sought."

4 And I want to obtain from this witness
5 his interpretation of why timber production, wildlife
6 and other matters need to be considered at least in
7 this context as part of that overall policy.

8 Mr. Waddell has said no, I think it's
9 solely restricted -- his interpretation of the section
10 is solely timber production.

11 MADAM CHAIR: No, but he's also said
12 several times that he thinks the proposed timber
13 management planning process will take into account
14 non-timber values.

15 MR. HANNA: I appreciate that, Madam
16 Chair, but I am referring now not to timber management
17 planning in the sense of the process that we are
18 reviewing, we are talking about a policy that will
19 stand over that in a way, and so I am asking now as
20 part of the development of that policy which the
21 Industry is advocating in their witness statement - and
22 which I can tell you that my client supports if it's
23 expanded to deal with all forest values - that I am
24 looking and seeing how that would actually be developed
25 and how that interfaces with the planning process that

1 this Board is being asked to decide upon.

2 MADAM CHAIR: So you want to ask Mr.
3 Waddell whether he thinks instead of a timber
4 production policy there should be a policy that will
5 look after all values in the forest at the same time?

6 MR. HANNA: All values perhaps
7 implicitly. I think we all recognize the difficulty of
8 ensuring that absolutely, but that some recognition is
9 given to them, yes.

10 MR. MARTEL: Didn't we have this argument
11 though about whether we were dealing with a forest
12 production policy --

13 MS. CRONK: A year and a half ago, sir.

14 MR. MARTEL: Or whether we're dealing
15 with a timber management policy about a year and a half
16 ago, quite an extensive debate. I think we had a
17 motion on it I think at one time even.

18 MR. HANNA: Wait a second, Mr. Martel. I
19 have to go back here. Are you talking about timber
20 versus forest management?

21 MR. MARTEL: Yes. Is that where you are
22 leading us?

23 MR. HANNA: Whoa, whoa, whoa. Timber
24 management/forest management, that had to do with the
25 planning process itself.

1 MR. MARTEL: I am not sure.

2 MS. CRONK: I can help my friend. The
3 position of the OFIA/OLMA is that the timber production
4 policy that is being urged in this witness statement is
5 to be focused primarily on the management of the timber
6 resource and that it will take into account non-timber
7 values as subsidiary issues of that. It is not a
8 forest production policy in the sense to which Mr.
9 Hanna has referred several times.

10 MR. HANNA: Mr. Martel, about going back,
11 this forest management/timber management is something I
12 am only too familiar with. I went back to find the
13 motion and I have searched and I have had our staff
14 search it three times where in the transcripts that
15 this matter was finally set to rest, and the best that
16 I can come up with is a statement from my good friend
17 Mr. Freidin which said, in the Ministry's view, the
18 words forest and timber were a semantical difference
19 and that for the purposes of this application they were
20 interchangeable.

21 MS. CRONK: Whatever Mr. Freidin's
22 position --

23 MR. HANNA: And I can give you the
24 transcript reference to that.

25 MADAM CHAIR: We are getting off the

1 topic here I think. Let's just concentrate on the
2 definition in this witness statement of timber
3 production policy, and the Board is satisfied that we
4 are not going to get much further with questioning Mr.
5 Waddell on what he thinks of non-timber aspects of the
6 timber production policy. I think we have as full an
7 answer as we are going to get from the witness on that.

8 MR. HANNA: All right, Madam Chair. The
9 only point that I would make - and I would look to your
10 direction on this - is to how I should proceed.

11 But it is my understanding, in fact I
12 would submit that the primary reference that is used at
13 least in Section 9.1 to support this need is this
14 section of Dr. Baskerville's audit, and I am testing
15 whether in fact that is a true interpretation of what
16 this section says.

17 MADAM CHAIR: Well, that's the OFIA's
18 interpretation of what this section says.

19 MR. HANNA: And I wish to ask them,
20 specifically dealing with this statement that says:

21 "The valuation of the best total response
22 for timber production, wildlife, et
23 cetera has not been sought."

24 And if that does not imply that in order
25 to deal with that one needs not to just look at timber

1 but one needs to look at, in this particular case for
2 example, wildlife values and whatever, and I would
3 suggest to you that that is continued on on the last
4 paragraph on page 65 where it says:

5 "This will require a forest sector
6 strategy analysis to put various raw
7 materials and other forest uses in better
8 perspective."

9 And my interpretation of that - and I
10 wish to find out how this witness has interpreted that
11 statement - is, it includes not just timber but it
12 includes other non-timber values.

13 MADAM CHAIR: Well, the witness doesn't
14 have to interpret that statement, but that proposition
15 put forth by Dr. Baskerville; do you agree with that,
16 Mr. Waddell, or do you think it's something that is
17 beyond your purview at this point and your focus is
18 only on the production of timber?

19 MR. WADDELL: In due respect I would not
20 want to interpret what Dr. Baskerville said other than
21 my impression of what he has said, and I believe the
22 Industry's, is that there is an urgent need for a new
23 timber production policy in Ontario, and from there it
24 appears to get a little hazy to me whether he means
25 that a timber production policy would cover something

1 other than straight timber objectives.

2 That is the position of our Industry, as
3 I understand it, but that in no way means that the
4 other users will not have input and will not have their
5 fair share of the allocation.

6 Our timber management planning process
7 that Industry is putting forward as proposed terms and
8 conditions guarantees that input, and if we go back to
9 the statement you made, Mr. Hanna, about this being a
10 bottoms up project - which I entirely agree with - we
11 would go to -- for example, let's take our own
12 management units, and we would be asked what our
13 management units can provide in terms of wood.

14 We know what the reserves, the areas of
15 concern for example are on there, we would have to work
16 those other land uses into our calculation and whether
17 it's 10 per cent or 15 per cent or 20 per cent of area
18 that would be committed to other users, then the
19 remaining area basically is for timber production, and
20 that was the area that would be used to go into our
21 timber production target for our unit.

22 That is my understanding of it. That
23 should be done in every unit across the province, Crown
24 management units as well, and the aggregate of that
25 then becomes the provincial total in terms of wood

1 fiber that this province can achieve, and that takes
2 into consideration all the concerns and the demands of
3 other users.

4 So in no way, shape or form are we
5 suggesting that because we are calling it a timber
6 production policy are we excluding other users. The
7 timber production policy will set the objective or it
8 will determine the capacity in each management unit and
9 then the aggregate of that will be the total capacity
10 for the province.

11 We will match that against the total wood
12 requirements of the various mills and hopefully the
13 capacity of the units will be greater than the capacity
14 of the mills; we will develop a strategic renewal
15 program to meet the needs of the mills on each unit;
16 and hopefully a strategy will flow to determine the
17 funding.

18 That is my interpretation, sir.

19 MR. HANNA: Q. Okay. Let's look at that
20 from another perspective and, that is, I hear what you
21 are saying, you are saying the reason we want a
22 provincial level analysis is to look at the
23 demand/supply balance and what we have got to do to
24 keep that in balance; is that correct?

25 MR. WADDELL: A. That's correct.

1 Q. Can we not look at the provision of
2 non-timber values in the same context? In other
3 words --

4 MS. CRONK: I am sorry...?

5 MR. HANNA: Q. In other words, I can
6 say: What is my demand for moose in the province and
7 what is my potential to produce moose in the province,
8 and I can see how that balances based upon the forest
9 structure that I need to support that moose population?

10 MS. CRONK: Madam Chair --

11 MR. HANNA: I can look at it from that
12 perspective too; can I not?

13 MS. CRONK: Madam Chair, that is a
14 planning question. I don't think it's appropriate to
15 be put to this witness.

16 MR. HANNA: Madam Chair, I am quite
17 prepared, if Ms. Cronk wishes, I will defer my
18 questions on a timber production policy to Panel 10. I
19 am only asking these questions because this was raised
20 in this panel and this is the Section 9 of the witness
21 statement I am trying to deal with.

22 If Ms. Cronk feels more comfortable in me
23 holding back these questions and dealing with them in
24 Panel 10, I am perfectly prepared to do that, but I
25 want to ask these questions. If this isn't the right

1 witness or the right panel, fine.

2 MS. CRONK: The last question, Madam
3 Chair, in my respectful submission, the last question
4 was a planning question and should not be put to this
5 panel. Any questions with respect to these witnesses'
6 evidence on the timber production policy are fine and
7 should be put now.

8 MR. HANNA: Madam Chair, I can't agree
9 with Ms. Cronk in any way whatsoever. I just heard
10 this witness say you have got a demand/supply balance,
11 we need this production policy, we have got to look
12 across the province in terms of demands of the mills
13 and production possibilities on the land base. That
14 isn't a planning problem, okay, fine, I am trying to
15 put it in the same context as this witness has answered
16 the question.

17 MADAM CHAIR: Well, all the evidence we
18 have heard in this panel, including the timber
19 production policy, has to do with renewal. The purpose
20 of discussing it here is the fact that you will be able
21 to have, as Mr. Waddell said, to plan a strategic
22 renewal program to meet what the production policy will
23 be.

24 And if your questions are about the
25 renewal aspect of the timber production policy, then

1 certainly this is the time to ask them. If the
2 question doesn't have to do with renewal and it's just
3 generally, how do you go about planning, using the
4 timber production policy as the basis of it, then I
5 think it should be kept to Panel 10.

6 MR. HANNA: I appreciate that, Madam
7 Chair. The difficulty I am having is this
8 inter-relationship and I think this panel has come
9 forward and made what I think is a reasonably
10 convincingly argument that you can't separate out the
11 activities, that they are integrated, and we have here
12 a timber production policy and fairly lengthy and
13 articulate discussion of why we need that production
14 policy. It's, I would submit to you, not limited
15 solely to renewal, it's related to the fact that this
16 is one way to ensure adequate renewal.

17 I appreciate that context, but this
18 discussion deals with the need for a timber production
19 policy. It doesn't say a timber production policy
20 solely for renewal, it talks about wood supply
21 requirements, it talks about levels of commitment to
22 different timber management activities, it isn't
23 limited solely to renewal.

24 I appreciate the difficulty, I think
25 hopefully you will appreciate the difficulty I am

1 -having. I am in the Board's hands where the best place
2 is to deal with it. I simply want to deal with it at
3 the right time, and I think this panel has come forward
4 and put out the only detailed exploration of this issue
5 that I have seen yet.

6 MADAM CHAIR: Well, certainly it's in
7 their draft terms and conditions and certainly we did
8 hear some evidence in the harvest panel on the timber
9 production policy being proposed by the OFIA.

10 In order to not confuse the Board, I
11 really think the discussion today should be within the
12 limits of renewal and how that relates to the timber
13 production policy, and I think it will be easier for us
14 to hear more general questions about planning and
15 production in Panel 10.

16 MR. HANNA: All right. Well, what I will
17 propose then, Madam Chair, is this - and I ask Ms.
18 Cronk for her agreement to it - I am willing to hold my
19 questions on this to Panel 10.

20 MADAM CHAIR: Do any other questions have
21 to do with the renewal evidence?

22 MR. HANNA: What my questions are this, I
23 am looking at -- I really want to deal with production
24 policy, and I think the production policy does not deal
25 solely with renewal, it deals with -- I want to deal

1 with that in principal, the production policy of what
2 should be in there, how other values should be
3 incorporated in that production policy, who should be
4 involved in the developing the production policy, those
5 types of issues.

6 MS. CRONK: Madam Chair, I don't want to
7 be contributing to any further delay of the Board's
8 process this afternoon, but I know the Board
9 understands that I also have obligations to my clients.

10 There has been a wood supply industry
11 panel before you, the witnesses on whom testified to
12 these very kinds of issues and there was
13 cross-examination on these issues, and if Mr. Hanna and
14 his client -- I frankly can't remember whether you
15 cross-examined on that panel or not. If you did then,
16 was your chance; if you didn't, then was your chance.

17 And on the planning panel yet to come - I
18 don't want there to be any confusion because I don't
19 want my friend to be in any way prejudiced by what I am
20 saying today - there is not going to be specific
21 evidence on the production issues, the wood supply
22 issues on our planning panel, that is not the case; and
23 that is why I said, if there are any questions today
24 from a renewal aspect that should be put to these
25 witnesses, they should be put to these witness and we

1 may have to take it, in my respectful submission,
2 question by question.

3 But I do not agree that Mr. Hanna should
4 defer his questions at large to the planning panel
5 because I don't want then to be in a position where he
6 thinks he hasn't had a full opportunity to ask the
7 questions that he wishes to.

8 My only point is this: The last time I
9 objected it was to a question that said: Couldn't you
10 plan for the production of moose in the same way,
11 couldn't you look at supply and demand for moose, and I
12 said that's not for this panel and that's why I stood
13 and it isn't for this panel.

14 But wood supply questions should have
15 been dealt with before in the purest sense if they have
16 renewal aspects. I am not objecting to them today, I
17 object to any pure planning question on which these
18 witnesses are not experts, but I don't think Mr. Hanna
19 should defer his renewal questions because there will
20 be no opportunity with further Industry witnesses to
21 explore it.

22 MADAM CHAIR: It wasn't the Board's
23 impression that Mr. Hanna's questions were specifically
24 about wood supply, we think he's talking about a larger
25 - -process that seems to be more about planning these

1 matters.

2 But now we have the experts on renewal,
3 and so if there are any questions specifically about
4 renewal and timber production, we should hear from you
5 now, Mr. Hanna.

6 MR. HANNA: Q. Mr. Waddell, I heard you
7 say that what you would like to do is to have a
8 production policy that looks at the supply of wood that
9 can be produced as a result of renewal provincially and
10 compare that to the provincial demand in terms of mills
11 and through that process to develop a timber production
12 policy; is that correct?

13 MR. WADDELL: A. Essentially correct,
14 yes.

15 Q. Well, let's try and keep our
16 discussion as restricted to renewal as we can. And I
17 am now saying that through renewal we also have
18 potential to structure the forest in terms of
19 production of other non-timber values; correct?

20 A. I think you are taking me right back
21 into where we were before.

22 Q. I certainly am. The point is, is
23 that the production policy, the decisions that are
24 established in that production policy will have an
25 impact on the future structure of the forest in

1 Ontario; will it not?

2 A. Agreed.

3 Q. That structure of the forest will
4 have impacts both in terms of timber and non-timber
5 values?

6 A. Agreed.

7 Q. And I am saying to you, is another
8 way to look at the appropriate level of renewal to look
9 at the forest structure that is required to supply
10 non-timber values? For example, we need a certain
11 amount of moose, we need a certain amount of habitat to
12 produce it, and to look at that as a basis to prescribe
13 the appropriate renewal level in timber and space in
14 the province? It's another way to approach the
15 problem.

16 A. Well, I thought that I had explained
17 earlier that the moose habitat requirements and the
18 requirements of all other users are incorporated into
19 the existing timber management plans and would become
20 part of the analysis that go into calculating or
21 assessing the potential to supply the wood from each
22 management unit.

23 Q. Right. But one of the reasons we
24 want a provincial policy is to provide the Legislature
25 with the information on which, on a broad level, they

1 can make decisions as to the future course of our
2 forest; correct? That is --

3 A. Yes, I would hope so.

4 Q. And we want that endorsement at that
5 level so that it can filter down the line, right down
6 to the forest management unit and you can basically get
7 that endorsement of the activities you are going to
8 undertake at the timber management level or forest
9 management level; correct?

10 A. By endorsement you mean funding?

11 Q. Exactly.

12 A. Yes.

13 Q. Now, because the forest structure
14 affects not just timber but affects non-timber values,
15 if you could picture yourself in the situation of
16 trying to decide what an appropriate level of renewal
17 is, one has to look at the forest structure you want to
18 achieve in terms of not just timber but other
19 non-timber values and, on that basis, develop the
20 appropriate level of funding to achieve that; correct?

21 A. You have to run that one by me again,
22 please.

23 Q. Okay. The forest structure is very
24 important in terms of timber supply and renewal
25 controls the forest structure, it's one means to

1 control the forest structure. The forest structure is
2 also very important in terms of other non-timber
3 values?

4 You have got how we going to -- what sort
5 of forest structure are we going to have over time and
6 space, and that is controlled partly by the amount of
7 funds that the Legislature allocates to provincial
8 programs for renewal; correct?

9 A. Correct.

10 Q. So in making that decision, when the
11 Legislature is trying to make that decision, do you not
12 see that there would be some advantage in not only
13 saying: This is the implications of the forest
14 structure in terms of timber supply, but this is also
15 the implications of that forest structure in terms of
16 other non-timber values that may be important?

17 A. I will agree with that.

18 Q. Now, when we go through this process
19 of bottom up analysis, we are basically saying --
20 perhaps let me take one step back. Each forest
21 management unit there is a range of alternatives in
22 terms of the forest structure that we can achieve and I
23 would say that - I will use the term production
24 possibilities for that.

25 A. Within the individual --

1 Q. Forest management unit.

2 A. --forest management unit?

3 Q. Yes.

4 A. To a certain extent.

5 Q. Yes, it's not unlimited.

6 A. No.

7 Q. There are physical bounds to it?

8 A. Yes.

9 Q. But there is some range within those
10 physical bounds?

11 A. Yes.

12 Q. And the timber management planning
13 process as it relates to an individual timber
14 management plan looks at those possibilities and
15 develops a preferred structure that you want to move
16 towards?

17 A. Hopefully it does.

18 Q. That is the concept, yes, what we
19 have intervening factors, but that is the concept;
20 correct?

21 MR. CRONK: Madam Chair, Mr. Martel, I am
22 sorry, I think we are away beyond - pardon me for
23 standing - I think we are away beyond what these
24 witnesses were qualified before you to testify to.

25 We are now talking about management

1 systems, production systems, policy development issues.
2 With all due respect to our clients and the men before
3 you, I don't believe they are qualified to speak to
4 these issues.

5 At the end of the day it's going to put
6 me in the position of saying: This evidence on these
7 issues is not, in my submission, of use to you. I
8 really urge that the Board consider the usefulness of
9 pursuing this any further with these particular
10 witnesses.

11 MADAM CHAIR: Mr. Hanna, what more do you
12 want to ask on this subject, where is it going?

13 MR. HANNA: Where I am going I think is
14 fairly straightforward in my view and, that is, that in
15 developing the timber production policy implicitly and
16 unavoidably you are establishing certain trends in
17 terms of the forest structure that have implications
18 for not only timber production but in terms of
19 production of a whole range of benefits from the forest
20 land base.

21 MADAM CHAIR: I think Mr. Waddell agreed
22 with you on that.

23 MR. HANNA: Right. And now I want to
24 explore with him if we take the tenet that has been put
25 forward that we deal strictly with a timber production

1 policy that looks strictly at wood, what are the
2 implications, how do we cope with, how do we deal with
3 the fact that that has implications not only to timber
4 but to a wide variety of other values on the land base.
5 And that is what I wish to explore.

6 MADAM CHAIR: I think we are then getting
7 completely away from renewal. I think that that is a
8 question that these witnesses -- well, if Mr. Waddell
9 wanted to try to answer that he could, but I would
10 think that that doesn't have to do with the renewal
11 evidence.

12 MR. MARTEL: I don't think that is what
13 he said though. Maybe I am wrong. But I don't think
14 that is what Mr. Waddell said, that they were just
15 dealing with wood.

16 MS. CRONK: He didn't, sir.

17 MR. MARTEL: I think he said it went much
18 beyond that, that after one does the analysis of the
19 quantity of wood that was required, that in fact you
20 took all the other range of factors into consideration
21 before you made a decision. I think that is what he
22 said. I think he said it three or four times now.

23 MS. CRONK: I agree with that, Mr.
24 Martel. The only reason that I stood again is because
25 we are now into a whole other discipline, you know,

1 there is systems analysis involved, there is policy
2 analysis involved in the questions that Mr. Hanna is
3 raising.

4 I am not really objecting to Mr. Waddell
5 offering an opinion on it, all of these men have
6 opinions on this, they are professional foresters, but
7 at the end of the day I am not sure it's going to be of
8 much help to you on issues of this kind. We may have
9 to hear from policy analysts as to how this should be
10 handled in the House or elsewhere.

11 And frankly if Mr. Hanna wants to deal
12 with these issues in a substantive qualified way, he
13 should be leading evidence on it or pursuing it with
14 witnesses qualified whose field experience or academic
15 training puts them in a position to really offer an
16 informed opinion to you.

17 MR. HANNA: Madam Chair, I certainly
18 intend to do as Ms. Cronk has suggested, but I looked
19 at this section and I am afraid I can't get away from
20 what is written in Section 9.1 and what this witness
21 has said and, that is, that the policy should be
22 exclusively dealing with wood supply.

23 And while I hear what Mr. Martel has
24 said, I certainly understand and I am listening to what
25 the witness said, and I believe what Mr. Martel has

1 said is correct. What has been said is that these
2 other concerns will be dealt with through the timber
3 planning process. My concern is: Can that
4 realistically be done given the proposal that has been
5 brought forward here in terms of how that policy should
6 be established.

7 Now, I accept what Ms. Cronk has said,
8 that these witnesses perhaps are not qualified in
9 timber production policies, therefore, perhaps then the
10 weight that should be assigned to this section, at
11 least in terms of that, should be quite limited.

12 But I was simply taking the fact that
13 this was included in the witness statement as a reason
14 that I should explore it with the witness.

15 MR. MARTEL: Are you looking for a
16 wildlife production policy, almost one that runs
17 parallel to what in fact they are suggesting in the
18 timber production policy? It seems to me that is where
19 you are heading or you are trying to head.

20 MR. HANNA: A forest production policy,
21 yes.

22 MR. MARTEL: Well, a wildlife production
23 policy, call it what you want.

24 MR. HANNA: Well, the difficulty is this,
25 Mr. Martel --

1 MR. MARTEL: The one is in place. And
2 the reason I say that, Mr. Hanna, the one's already in
3 place, the timber production policy is already there,
4 but you haven't got, I think what you are looking for
5 is a wildlife production policy.

6 MR. HANNA: We have a moose policy.

7 MR. MARTEL: But that's not wildlife,
8 only moose.

9 MR. HANNA: No, I accept that, Mr.
10 Martel. I guess the point that I am getting at is, if
11 the Board were to adopt the recommendation contained in
12 this section, it's my client's view that there is the
13 potential of setting in motion a forest structure into
14 the future that may well serve the timber needs but may
15 well not serve the needs of other forest users.

16 MADAM CHAIR: Mr. Hanna, the Board isn't
17 going to be adapting any position unfortunately for a
18 long time at the rate we are going in this hearing, and
19 you will have lots of time to put that before us in
20 your case.

21 Today I just want to see how far we can
22 go with these witnesses in terms of the renewal aspects
23 of the timber production policy, and if you have no
24 more questions with respect to that, then I guess we
25 are finished.

1 MR. HANNA: All right. I would just ask
2 one last question then to the panel, Madam Chair.

3 Q. And that is: Mr. Waddell, if you
4 develop a timber production policy that has inherent in
5 it a certain forest structure over time and space, does
6 this not run the risk of prejudging what the production
7 policies should be for other non-timber values on the
8 forest land base?

9 MS. CRONK: I don't even understand the
10 question, let alone --

11 MR. HANNA: I will read it again.

12 Q. If you prepare a timber production
13 policy that responds solely to wood requirements and
14 inherent in that is a forest structure -- implicit in
15 that in satisfying that objective of that policy is a
16 forest structure, do you not run the risk of prejudging
17 the production possibilities with respect to non-timber
18 values?

19 MR. WADDELL: A. Mr. Hanna, your
20 question says if you adopt a forest or timber
21 production policy that responds solely to wood
22 requirements, and I have never suggested that this
23 policy is going to respond solely to wood production --
24 wood requirements.

25 I have tried to indicate that the policy

1 itself, as I see it, will end up with some figures in
2 it that will be related directly to the wood
3 requirements of this province on an individual
4 management unit basis, they will have some figures in
5 it for each management unit that will show what the
6 management unit is capable of producing and the renewal
7 costs of producing that quantity of wood. That is what
8 I mean by the timber production policy.

9 And as I have tried to explain, to attain
10 those figures you must of course take into
11 consideration your concerns and everybody else's
12 concerns on Crown lands in Ontario, and that will be
13 done. But our figures that we end up with will be the
14 net figures that we can produce from the available land
15 base after the other users' concerns have hopefully
16 been met.

17 And I can't say it any clearer than that.
18 So I refuse to accept your suggestion that we are
19 proposing a timber policy here -- production policy
20 that responds solely to wood requirements.

21 It will identify the wood requirements,
22 yes, and it will identify the renewal strategy to get
23 there, and it will identify the funding necessary, but
24 all of that is based on the proper allocation of the
25 Crown lands.

1 Q. Do you see a role for other
2 stakeholders in the development of that policy?

3 A. Absolutely, and that is the position
4 of the Industry and that will come through the planning
5 process that the Industry is proposing in their terms
6 and conditions where we are proposing a provincial
7 committee, a regional committee and a local committee
8 made up of appropriate organizations, and between those
9 three committees I think that everybody that has a
10 stake in the land use or Crown -- the use of Crown land
11 in Ontario will have the appropriate opportunity for
12 input.

13 MR. HANNA: Mr. Waddell and rest of the
14 panel, I wish to thank you for your time.

15 Madam Chair, I appreciate your indulgence
16 in allowing me to go a little longer than my estimate
17 and I will await the next panel.

18 MADAM CHAIR: Thank you very much, Mr.
19 Hanna.

20 Mr. Freidin?

21 MR. FREIDIN: I wouldn't mind a few
22 minutes to set up.

23 MADAM CHAIR: Yes. Why don't we take our
24 afternoon break now. 20 minutes. Thank you.

25 ---Recess taken at 2:55 p.m.

1 ---On resuming at 3:20 p.m.

2 MADAM CHAIR: Please be seated.

3 Mr. Freidin?

4 CROSS-EXAMINATION BY MR. FREIDIN:

5 Q. Mr. Waddell, I would like to begin
6 with you. You are on a roll, Mr. Waddell.

7 You described the development of the FMA
8 program and one of the things that you stressed was the
9 importance of the integrated planning of harvest and
10 renewal. And would you confirm for me that even before
11 FMAs were created on Crown management units, the
12 planning for both harvest and renewal was in fact
13 undertaken by the same forester, that would be the
14 Crown forester?

15 MR. WADDELL: A. I can only confirm that
16 for you, Mr. Freidin, from my days with the Ministry.

17 Q. All right.

18 A. Yes, it certainly was the same
19 forester that planned the renewal as -- and the
20 harvesting operations together in the timber management
21 plan.

22 Q. And am I correct that that same
23 integrated planning of harvest and renewal takes place
24 today on the Crown management units?

25 A. I would assume so.

1 Q. You made a number of comments, one of
2 the sort of topics that you dealt with was that you
3 wanted the Crown management units to be managed to the
4 same standards as the FMAs.

5 I want to have you turn to Section 4 of
6 the witness statement which is Exhibit 1137. You will
7 find that on page 40. Do you have that?

8 A. Yes, I do.

9 Q. And your policy statement or position
10 statement is found on page 40. But can you turn over
11 to page 42, and what I want to do is clarify in my mind
12 what you mean when you refer to standards in this
13 section, when you say you would like the Crown
14 management units to be managed to the same standards.

15 If you direct your attention to the
16 paragraph in the middle of the page which says:

17 "The industry understands these
18 conditions to be an implicit recognition
19 of the fundamental need for Crown
20 management unit lands to be managed to
21 the same standards as FMA lands. Until
22 very recently silvicultural groundrules
23 were formulated only for FMA lands.
24 Conditions 10 to 12 as proposed by the
25 Ministry do not distinguish between

1 management unit types."

2 And I take it from that paragraph, Mr.
3 Waddell, that the standards that you refer to, when you
4 say you would like the Crown management units to be
5 managed to the same standards as FMAs, are the
6 standards referred to in terms and conditions 10 to 12
7 of the Ministry of Natural Resources.

8 If you go to page --

9 A. Go ahead.

10 Q. I could take you to them one at a
11 time, but could you perhaps -- well, let's take it one
12 at a time, page 41.

13 I take it from the statement on page 42
14 that the Industry endorses MNR term and condition 10
15 which says that:

16 "The approach and planning requirements
17 for the development of silvicultural
18 groundrules as management prescriptions
19 for normal operating areas is accepted."

20 And it goes on and talks about
21 silvicultural guides and forest ecosystem
22 classifications. I take it that one of the conditions
23 that you refer to is a condition that the approach and
24 the planning requirements for the development of
25 silvicultural groundrules be as described?

1 A. That's correct.

2 Q. And would you agree that that
3 particular condition is in fact the same for Crown
4 management units and FMAs because they are in fact
5 governed by the same timber management planning
6 process?

7 A. This is condition No. 10 we are still
8 talking about?

9 Q. Yes.

10 A. That's my understanding.

11 Q. And going to term and condition 11,
12 it says:

13 "MNR shall ensure that the silvicultural
14 groundrules shall include a description
15 by site type of..."

16 And then it sets out the various subject
17 matters which are addressed. And is that one of the
18 conditions -- one of what you refer to in the paragraph
19 as these conditions?

20 A. Yes, it is.

21 Q. And would you agree with me that that
22 condition in fact or that standard is the same for
23 Crown management units and for FMAs because, again,
24 they are both governed by the same timber management
25 planning process?

1 A. Yes.

2 Q. And would the same hold true for term
3 and condition No. 12 for the same reason?

4 A. Yes, it would.

5 Q. Turn over the page -- so just to
6 confirm, the paragraph which follows 10, 11 and 12
7 which says:

8 "Industry understands these conditions to
9 be implicit, recognition of the
10 fundamental need for CMU lands to be
11 managed to the same standards as FMA
12 lands."

13 Those are the standard that you were
14 referring to?

15 A. We certainly were referring to those
16 standards as above. I think there maybe is a little
17 broader context in there than that as well.

18 Q. All right. Could you explain that
19 then?

20 A. I think our overriding concern is
21 that the Crown management units should have the same
22 level of renewal activities as what the FMAs do, that
23 they should be funded appropriately and that that
24 should translate into an appropriate level of renewal.

25 Q. You gave some evidence and there was

1 certainly some discussion about the fact that there
2 really is only so much money to go around, that is a
3 reality that we all live with in our daily lives, as
4 well as in timber management; is that a fair statement?

5 A. Yes, it is.

6 Q. And I understand that in the FMA Task
7 Force this subject matter of funding was addressed. I
8 think, indeed your evidence was -- I think the
9 statement says in the FMA Task Force that:

10 "Ensured government commitment without
11 distinction to the type of management
12 unit is something which is advocated by
13 Industry."

14 Is that sort of addressing the same
15 comment that you just made?

16 A. Yes, it is. I believe it was the
17 Industry's position that the money, the limited money
18 to - I think I am quoting you there - the limited money
19 that is available should be disbursed to the best sites
20 regardless of whether they be on CMUs or FMUs.

21 Q. All right. So if one accepts the
22 fact that there is only so much money to fund these
23 activities, I understand that what you are saying is
24 that if in fact there had been preferential treatment
25 in terms of FMAs getting the silvicultural money --

1 first of all, did I understand your evidence correctly
2 that it is Industry's view that there had been
3 preferential treatment in the past whereby FMAs
4 received silvicultural money at the expense of the
5 Crown management units not getting it?

6 A. The evidence that we -- or that
7 evidence is based largely on our experience on the FMA
8 Task Force and the information that was given to the
9 three member -- Industry members on that task force and
10 that is why we made reference to it.

11 There was a definite feeling on the part
12 of many of the Ministry people who made presentations
13 to us that the Crown management units received somewhat
14 less than a fair share of their allocation in relation
15 to the FMAs.

16 As I have mentioned here previously, the
17 FMA holders by and large received their full
18 silvicultural funding requests up until 1989-90 and our
19 understanding from what we heard from many Ministry
20 managers was that that was not the case on the Crown
21 management units.

22 So the distinct impression was there that
23 the FMAs were receiving full funding, the CMUs were
24 not.

25 Q. All right. You indicated the other

1 day that that was the situation as related to you at
2 that particular point in time.

3 And can I just ask: Assuming for the
4 moment - not suggesting that this is the case - but
5 assuming for the moment that the same situation occurs,
6 exists today or might exist in the future, I understand
7 your evidence to be that you would rather have the
8 monies in fact not all go to the FMAs, but in fact have
9 some monies which would otherwise go to FMAs go to
10 Crown management units where the sites on those units
11 in fact might produce a wood supply to the benefit of
12 your companies?

13 A. I am not certain that we have stated
14 that in this evidence package, and I would be reluctant
15 to say that on behalf of the Industry.

16 On an individual company basis that may
17 well be the case where those companies are deriving a
18 significant portion of their wood from CMUs, however,
19 there are companies in Ontario who derive very little
20 wood from CMUs and they may have a different feeling
21 about it than that.

22 I don't think, Mr. Freidin, that I am at
23 liberty to say on behalf of the associations that that
24 would be our associations', either the OFIA/OLMA, I
25 don't think that has been formalized as a position yet.

1 Q. Okay. Now, if I could just take you
2 to page 43 where there is a reproduction of some of the
3 cross-examination of Mr. Waito.

4 In the first question there is reference
5 to the same criteria for stocking survival, free to
6 grow and anything that speaks to stand condition
7 measurement.

8 A. Sorry. I am not with you.

9 Q. All right. Take a look at the
10 question on page 43, it's a quote from Mr. Waito's
11 evidence. It says:

12 "All right. And with respect to the
13 Crown management units..."

14 A. Yes.

15 Q. "...and the type of regeneration
16 effort that is undertaken on them, can we
17 agree that as a proper planning
18 principle, proper forestry planning
19 principle, the same criteria for
20 stocking, survival, free to grow and
21 anything that speaks to stand condition
22 measurement, those criteria should be the
23 same regardless of what unit you are
24 talking about from a proper forestry
25 planning perspective?"

1 And Mr. Waito agreed and his comment is
2 that:

3 "It would depend on the management unit
4 and on the sites that are being managed,
5 but the criteria would be the same."

6 Now, do you agree with the answer? Do
7 you think that is the correct answer?

8 A. Absolutely.

9 Q. And do you believe that that in fact
10 is the case in practice? I take it from your earlier
11 answers that you do?

12 A. Well, I think it is, however, I don't
13 have any personal knowledge at the moment of what
14 standards that are in place on the Crown management
15 units. I am not in a position to have that
16 information.

17 Q. I don't understand that, Mr. Waddell.
18 Perhaps you could explain that and, at the same time,
19 you can explain what you meant when you said that we
20 don't know, and I took you were either referring to
21 your company or to the Industry, the level to which
22 surrounding CMUs are being managed. What is it that
23 you don't know?

24 A. We don't know the renewal level of
25 activity. For instance, on our own company's case we

1 get wood from three or four different Crown management
2 units, but we do not know the level of renewal activity
3 engaged in on those Crown management units.

4 Q. What do you mean by level?

5 A. Whether they are regenerating 30 per
6 cent of the harvest, 50 per cent, this sort of thing.
7 We don't know if the 1989 or '90 level of renewal is
8 meeting the need. We have no way of determining this
9 other than probably second-hand discussions with the
10 Ministry foresters which from time to time of course we
11 have, but we have no official way of getting that data.

12 Q. Well, if in fact there were project
13 records available in the district office which would
14 indicate what had happened on a piece of particular
15 cut-over and whether it had been treated, that
16 information would tell you whether in fact the area had
17 been treated; would it not?

18 A. Yes, it would.

19 Q. And that information is available to
20 you?

21 A. I suppose it is, we haven't attempted
22 to get the actual project records for Crown management
23 units.

24 Q. Is the information that you say that
25 you don't know about, is it not contained in the timber

1 management plan that sets out in the various portions
2 the areas which are being treated, the renewal
3 activities which are planned?

4 It may not, I agree, correspond acre for
5 acre because of the overlapping in plans, but is that
6 not information which indicates to you the level of
7 renewal that is occurring on Crown management units?

8 A. Yes, I believe you are right. It
9 being a public document, the summary of the work
10 proposed for the next five years and the summary of the
11 work that has been carried out for the last five years
12 would be included in that plan and, as such, it is
13 available to the public.

14 Q. The same as with your plans?

15 A. Yes, absolutely.

16 Q. And the stocking standards are set
17 out in those plans, on the Crown management plans the
18 same as they are on FMA plans?

19 A. I can't speak definitively on that.
20 I don't know if the stocking standards are in the plans
21 or not. Where they -- well, I shouldn't ask you.

22 Q. Well...

23 A. In the past plans, until the Ministry
24 went under the new timber management planning manual, I
25 am not sure that they were in the older plans.

1 Q. Okay. Let's put it this way: If the
2 Crown management plans have an indication or have
3 silvicultural groundrules which indicate what they are
4 going to do on various site types and they set out the
5 stocking standards they want, the kind of options which
6 are approved, they have annual reports which indicate
7 what has been done in this year, they have a table in
8 them that indicates all the areas of every working
9 group that they intend to harvest in that year, the MAD
10 for each working group for that five years which is
11 available for harvest, an indication of the surplus
12 which has been declared in relation to each of those
13 working groups, it has a report of past forest
14 operations which indicates what has happened in the
15 last five years by combining the five annual reports
16 which are required under the process, is that the kind
17 of information that you say -- would you not agree that
18 that is the sort of information that would allow you
19 and the public to in fact know what was going on on
20 Crown management units?

21 A. It would go a long way towards that.

22 Q. Is the level of renewal that occurs
23 on forest management agreement areas something that can
24 be determined by reviewing your plans?

25 A. Would you clarify what you mean by

1 the level of renewal?

2 Q. Well, you said that you wanted the
3 same level of renewal to be funded. You indicated that
4 you had some concern perhaps that you weren't able to
5 determine the level of renewal on Crown management
6 units.

7 Regardless of how you qualify or how you
8 define level of renewal, can you determine from your
9 plans the level of renewal? If someone goes and looks
10 at your plans with all of the extensive information in
11 it about all the things I mentioned, does that not
12 provide an indication -- a good indication of the level
13 of renewal which is being planned, if you have annual
14 reports every year as to what you did, what you
15 actually did?

16 A. Yes, it does.

17 Q. All right. Thank you. And you would
18 agree with me, therefore, that if the Crown management
19 plans have the same information and report their
20 information in exactly the same way, the same would be
21 true for Crown management units?

22 A. I would certainly agree with that.

23 Q. If I might deal with another topic
24 that you dealt with Mr. Waddell, and that is,
25 second-year survival, and I believe that this concern

1 is described in your witness statement.

2 It starts, just for reference purposes, I
3 think at page 105 of the witness statement; am I
4 correct? I guess it's back a little farther than that,
5 goes back to page 102 where you start dealing with
6 effectiveness monitoring; is that correct?

7 A. Yes.

8 Q. And as I understand your evidence,
9 the main concern that you had in relation to survival
10 assessments - and by concern I meant concern arising
11 out of MNR's proposed terms and conditions - was the
12 result of wording of MNR term draft terms and
13 conditions 43, 54 and 56; is that correct?

14 A. 43, 54...?

15 Q. And 56.

16 A. 56, that's correct.

17 Q. And am I correct, do I have the
18 correct understanding of your evidence that the concern
19 that the Industry have is that those terms and
20 conditions might be interpreted as suggesting a
21 mandatory requirement for survival assessments to be
22 conducted on all plantations on all management units?

23 A. Yes, that is our first concern. And
24 our second concern is the words 'and other condition
25 information.' We are uncertain what the Ministry means

1 by the term 'other condition information.'

2 Q. Okay. So you would appreciate some
3 clarification of that particular matter?

4 A. Yes.

5 Q. Okay. Now, you gave considerable
6 evidence as to the limitations of survival assessments
7 in terms of reporting them, and I understand your
8 evidence to be that without some explanation the
9 reporting of a survival assessment percentage can be
10 misleading, particularly to the public, if what they
11 are concerned about is what in fact is going to be on
12 the ground a rotation from now for the purposes of
13 harvest. Is that a fair assessment or summary of one
14 of your concerns?

15 A. That's one of our concerns, yes.

16 Q. That a number all by itself without
17 some explanation I guess in relation to survival, can
18 be somewhat misleading?

19 A. Certainly can.

20 Q. I am going to put a couple of
21 propositions to you, Mr. Waddell, and I would want you
22 to indicate whether you can agree with the proposition
23 or not.

24 A. Excuse me. Before you ask me, are
25 you asking me as an individual forester or on behalf of

1 the associations?

2 Q. Let's try on behalf of the
3 associations. If your answers cannot be on that basis
4 you tell me, okay?

5 A. Okay.

6 Q. Do you agree that the public want to
7 know how the regeneration program is doing?

8 A. Definitely.

9 Q. Would you agree that the public often
10 express their interest or concern about that subject
11 matter by posing the question: Are the trees which we
12 are planting surviving?

13 A. Unfortunately that seems to be the
14 direction of the majority of questions.

15 Q. Right. And you say unfortunately
16 because of your concern about the confusion that might
17 arise by giving an answer as to the percentage?

18 A. Yes.

19 Q. Would you agree with the proposition
20 that providing information to the public on this
21 subject of survival is desirable as long as the public
22 are advised of the limitations or are given some
23 guidance as to how to interpret that data?

24 And I acknowledge that it might be a
25 difficult thing to do, but if that information could be

1 provided and some sort of understandable advice could
2 be given as to the limitations of that percentage, do
3 you believe that that would be a desirable thing to do?

4 A. If I had a choice or if our
5 association has a choice in the matter, I believe we
6 would prefer to see success reported to the public -
7 and we certainly agree it must be reported to the
8 public for all the obvious reasons - I think we would
9 prefer to see it measured in possibly this order of
10 priority, stocking in terms of acres successfully
11 regenerated -- hectares; secondly, would be free to
12 grow; and, third in priority would be survival, because
13 we feel that the latter -- the first two are more
14 meaningful than survival.

15 Q. I will get to stocking later, but
16 would you agree with me that, again just as with
17 survival stocking, reporting stocking success by
18 percentage the way in fact it is done - and I am not
19 suggesting it should be done any other way - that that
20 again, the number all by itself is a difficult concept
21 for the public to get their minds around because when
22 they look at it and say: We have got 50 per cent
23 stocking or 40 per cent stocking, the number to the
24 layperson doesn't sound very good, although it might
25 very well be very good from a silvicultural point of

1 view?

2 A. I absolutely agree with you.
3 Reporting stocking by a per cent would be worse than
4 useless. I think the only way you could do it, if you
5 were going to use stocking, is you would have to
6 establish an acceptable level of stocking and then say
7 it's 50 per cent, for example, and then you would
8 report the acres -- hectares successfully regenerated
9 to that level.

10 Q. I can tell you, Mr. Waddell, I am not
11 going to try through my cross-examination to develop a
12 perfect answer to this problem, and I want to explore
13 some of the difficulties and perhaps with the
14 assistance of your evidence we may all agree on an
15 appropriate way to deal with this particular matter.

16 So let me continue with survival
17 assessments. Let me continue my questioning on
18 survival assessments on the assumption that survival
19 assessment reporting is the way that we are going to
20 end up reporting to the public how the regeneration
21 program is doing.

22 I know it's something that you are not
23 advocating, but let's assume that that is what ends up
24 when we get to the end of the hearing. So we have an
25 obligation -- there is an obligation to report survival

1 assessment data to the public, okay?

2 A. Okay.

3 Q. Now, would the Industry be willing to
4 discuss with the Ministry of Natural Resources how that
5 information might best be conveyed to the public?

6 A. The Industry always more than
7 welcomes at any opportunity a chance to discuss items
8 of mutual concern like that, Mr. Freidin.

9 Q. And again, assuming that it's
10 survival that is being reported, would you agree that
11 it might be possible to design a sampling program in
12 relation to that kind of data which would not require
13 survival data to be collected for every plantation on
14 every management unit?

15 A. If I understand what you are saying,
16 you are saying that it may be possible that survival
17 data could be sampled without having to do so from
18 every management unit each year.

19 Q. Without having it from every
20 plantation on every management unit. We will take this
21 a step at a time.

22 A. Okay.

23 Q. It might be possible -- can you agree
24 with the proposition that it might be possible to
25 design a sampling program for survival data which would

1 not require survival data to be collected for every
2 plantation on every management unit?

3 A. I am not a statistician, but that my
4 be possible.

5 Q. It's something that -- assuming
6 survival data was the way to go, it would be something
7 worth looking into, as to whether it was possible to do
8 it without going to every plantation on every
9 management unit?

10 A. Could I just ask you a point of
11 clarification? You are saying every plantation on each
12 management unit. By that, you mean that then you will
13 automatically have some sampling in each management
14 unit each year, is that what you are suggesting?

15 Q. I am saying that that may or may not
16 be the case. I am asking the question because I
17 understand that one of the major concerns the Industry
18 has about the term or condition that the Ministry has
19 proposed is that it would lead to an obligation to in
20 fact do survival assessments on every plantation on
21 every management unit.

22 And I am just saying: Would it be -- you
23 would be happier if we had to report survival data if
24 we could do it through a sampling procedure which would
25 not require assessments to be done on every plantation

1 on every management unit?

2 A. That's correct.

3 Q. So anything that could be done to
4 reduce the number of plantations that had to be
5 assessed for the purposes of this reporting function
6 would be desirable from your point of view?

7 A. Certainly.

8 Q. And you would, I suppose, then
9 advocate that it would be worthy to in fact investigate
10 whether such a design could be developed which would
11 not require you to get data in relation to survival
12 from every management unit?

13 A. Yes, certainly given our concerns
14 about the usefulness of the data.

15 Q. Right. But I guess based on your
16 earlier comment, somebody knowledgeable in statistics
17 and that sort of thing would have to determine whether
18 or not in fact that was possible?

19 A. Yes.

20 Q. Again, on the assumption that
21 survival data was going to be collected in a
22 statistically acceptable way so that you get some sort
23 of meaningful report at the end or information at the
24 end, would you agree that whether you had to do that
25 from all management units or 10 or 5, whatever the

1 sampling procedure said you had to do it, that you
2 would want to collect that survival data for the same
3 year, either all first-year assessments or all
4 second-year assessments, or all third-year assessments;
5 whatever year you happen to choose?

6 A. It would seem to me that would be
7 logical.

8 Q. And can you agree with the
9 proposition that if it is determined that the reporting
10 of survival data collected in an acceptable way would
11 be beneficial to report to the public, as suggested in
12 MNR terms and conditions, that it would be reasonable
13 to assume that Industry would assist in collecting the
14 necessary data?

15 A. Would you try that one by me again,
16 please?

17 Q. Would you agree that if in fact it
18 was determined that the reporting of survival data was
19 the means -- or a means by which the public should be
20 advised how the regeneration program was doing, and
21 assuming that necessitated the collection of survival
22 assessment information from various management units -
23 the number as yet to be determined - that it would be
24 reasonable to assume that Industry would assist in
25 collecting the necessary data?

1 A. Mr. Freidin, I don't feel in this
2 question that I can commit the Industry to any costs.
3 Speaking on behalf of my own company, it would be my
4 position that, first of all, we have taken a very firm
5 stand against the mandatory collection of survival
6 data, so I don't think that we would want to
7 participate; but, secondly, I think the Ministry would
8 be in a better position to carry out the assessment
9 completely independent of the company in order to
10 maintain independence of audit, if you will.

11 If you are reporting this through the
12 House and to the public, I think that independence
13 factor should be considered.

14 MR. FREIDIN: And I take it that there is
15 no one on the panel that can really answer that
16 question on behalf of Industry, Ms. Cronk, that it
17 would be an individual response?

18 MS. CRONK: Ask them.

19 MR. FREIDIN: Q. Is there anybody here
20 that can answer that on behalf of Industry?

21 MS. CRONK: Well, you have the Industry
22 position in the witness statement at great length.

23 MR. FREIDIN: Q. Does anybody on the
24 panel hold a contrary view to that just expressed by
25 Mr. Waddell in relation to the assistance that Industry

1 could or should provide in terms of collecting this
2 data?

3 (no response)

4 MR. FREIDIN: Let the record indicate
5 that there is no response, so everyone agrees with Mr.
6 Waddell.

7 Q. Now, Mr. Ferguson, if I can go you
8 for a moment, I want to ask a question which sort of is
9 along the lines that I was dealing with with Mr.
10 Waddell, and that is this problem about numbers taken
11 all by themselves are misleading.

12 We have now -- I think Mr. Waddell said:
13 You can't report a survival number to the public
14 without some information because without an
15 understanding of some basic facts about forestry they
16 may misunderstand the significance of that number. And
17 he's also said that stocking can be misleading when you
18 report it all by itself.

19 Would you agree with me that -- well, you
20 mentioned this business about overlapping plans in your
21 evidence. Do you recall the cross-examination by Ms.
22 Swenarchuk where she was looking at that particular
23 subject matter?

24 MR. FERGUSON: A. If you are referring
25 to renewal activities and harvest activities altering

1 the timber management plan?

2 Q. Yes?

3 A. Yes.

4 Q. And am I correct that in a timber
5 management plan there is an indication of the amount
6 which is planned to be harvested in the five-year term?

7 A. That's correct.

8 Q. There is also a table, Table 4.19,
9 which indicates the planned regeneration activities,
10 whether it's site prep, tending, planting which is
11 planned for the five-year term?

12 A. That is also correct.

13 Q. And if somebody looks at that plan
14 and says: The harvest plan is a hundred and the
15 regeneration plan is for 75, would you agree that they
16 could not come to the assumption that there were areas
17 being harvested in the five-year plan which weren't
18 going to get treated; it would be improper for them to
19 make that assumption?

20 A. That would be a fair assumption, I
21 would think, taken in that context, yes.

22 Q. Fair assumption that they would be
23 wrong in that some of the areas which were going to get
24 harvested, the other 25, may get harvested in the fifth
25 year and not get treated until the first or second year

1 of the next plan?

2 A. That's correct, that situation could
3 very well occur.

4 Q. So again, it is an improper thing to
5 do, to just look at a timber management plan, look at
6 the planned harvest, look at the planned renewal, see a
7 difference and make a reasonable assessment of whether
8 the level or the type of renewal treatments is
9 adequate?

10 A. Strictly by looking at the tables in
11 the plan that could be a problem, I would agree, yes.

12 Q. All right. And, Mr. Waddell, in
13 Exhibit 68 which was the Forest Management Agreements
14 Report for the period 1988-1985, at page 68.

15 MR. WADDELL: A. Yes.

16 Q. I think Ms. Swenarchuk spent some
17 time with you on this, and where it says at the top of
18 the table:

19 "Harvest cut 11,460 hectares...", and
20 then a couple of columns down it says:

21 "Total regeneration 4,418."

22 A. Right.

23 Q. And you gave extensive evidence as to
24 the reasons that that difference existed. But again,
25 would you agree with me that -- well, it seemed to me

1 that what she was doing, she was looking at those and
2 she was somewhat concerned or was even suggesting to
3 you that somehow there was something wrong with the
4 management on your two FMAs because these two numbers
5 were so different.

6 And I understand your evidence to have
7 been that there was nothing wrong with the management,
8 but there were legitimate reasons for those
9 differences?

10 A. That's correct. For example, the
11 Ministry phase-in -- or phase-out was not included,
12 their regeneration efforts were not included in this
13 table, among other things.

14 Q. Right. And so again, even when you
15 pick up a report like this, all I am saying is, that if
16 people suggest to anyone, including the Board, that you
17 pick up a plan and the numbers don't match or you pick
18 up a report like this and the numbers don't match, that
19 does not mean -- it would be unreasonable to conclude
20 that there was something faulty about the regeneration
21 program which was being undertaken on that particular
22 management unit?

23 A. You are absolutely right, there must
24 be some comprehension or understanding on the part of
25 the reader to know what those figures really mean.

1 Q. Thank you.

2 Now, I am not too sure who should deal
3 with this question, it arises out of -- I think you all
4 gave evidence about the importance of the link between
5 harvest and renewal. And Mr. Hynard --

6 Well, in this link between harvest and
7 renewal, Mr. Waddell, let me just see if I can get
8 started with you. This link is apparent initially in
9 the silvicultural groundrules where, for a particular
10 site type, you describe the various options that are
11 available on that type for harvest, renewal and
12 maintenance?

13 A. Yes.

14 Q. And Mr. Hynard in the Ministry's case
15 referred to that as a silvicultural package, all these
16 activities are linked and they can be looked at as a
17 package. Are you familiar with that term,
18 silvicultural package?

19 A. I have heard it, I can't say I am
20 totally familiar with it. I guess that is what we call
21 our silvicultural system.

22 Q. All right. Well, regardless of
23 whether you would call the identification of the
24 harvest, the renewal, the tending part of the
25 silvicultural groundrules the silvicultural package or

1 not, let's just leave that aside. Would you agree with
2 me that because there is a link in the planning of
3 those activities that they can be looked at as a
4 package?

5 A. Certainly.

6 Q. There has been some cross-examination
7 in this hearing, Mr. Waddell, that at the annual work
8 schedule level that perhaps there should be an
9 opportunity for people, the public to object to an
10 approved activity occurring on a particular piece of
11 land, and I will be very specific.

12 There has been some suggestion that at
13 the annual work schedule level if the company in its
14 annual work schedule says this is the year that we are
15 going to aerial tend that plantation, that the approved
16 option of aerial tending should be capable of being
17 overturned at the annual work schedule level if there
18 is an objection to the spraying of that particular
19 plantation.

20 Now, what is your response to the
21 acceptability of that sort of change to an approved
22 silvicultural groundrule at that particular time?

23 MR. HANNA: Excuse me, Madam Chair, that
24 sounds like a question on tending to me.

25 MR. FREIDIN: Are you objecting?

1 MR. HANNA: Yes, Mr. Freidin, I am
2 objecting.

3 MADAM CHAIR: Could you repeat your
4 question, Mr. Freidin?

5 MR. FREIDIN: Well, let me just --

6 MADAM CHAIR: I missed it. Could you
7 repeat it?

8 MS. CRONK: It took me 10 minutes to get
9 it down.

10 MR. FREIDIN: All right.

11 MS. CRONK: From the top, please.

12 MR. FREIDIN: Q. Let me put it this way,
13 I will try to make it very short.

14 If you spent a lot of money putting in a
15 plantation in the first and second year of your plan
16 because it was approved to do so, and your
17 silvicultural groundrules also say that you can aerial
18 tend it, is it acceptable to you that in the third year
19 when you want to aerial tend it someone can come along
20 and say: No, no, you can't do that?

21 A. No, it certainly is not. It would
22 severely handicap our ability to manage our conifer
23 plantations. The tending package is put forth in the
24 five-year plan, but the specifics of it go to the
25 annual work schedule and that goes into the Ministry by

1 the 1st of December and normally the tending is carried
2 out the following late July or August, and if the
3 interim we were unable to carry out the proposed
4 tending program, that plantation could and undoubtedly
5 would suffer growth loss and certainly some mortality
6 from the hardwoods crowding in on them.

7 So it would be a most undesirable
8 situation for the forest managers across Ontario.

9 Q. It might even end up in a completely
10 good waste of investment in terms of all the site prep
11 and the planting you did; would it not?

12 A. It's possible on certain sites where
13 the competition is very fast or very rapid growing,
14 yes, it would be. You are risking the dollars that you
15 have already got invested in site preparation, in
16 nursery stock and in the planting of the nursery stock
17 itself.

18 Q. Okay, thank you.

19 Mr. Gemmell, I have asked for Slide 9.4
20 from your case study to be put into the slide
21 projector. I understand it's there. Perhaps someone
22 could turn the lights off and let's see whether we can
23 see this slide on the wall.

24 I don't see it very well. I think -- and
25 hopefully the blinds will only be closed for a short

1 period of time.

2 Now, Mr. Gemmell, can you again describe
3 what this is a photograph of?

4 MR. GEMMELL: A. It's a photograph of
5 block B in the case study area. It's a group seed
6 tree, it was a clearcut leaving group seed trees
7 purpose originally being for natural seeding.

8 What I had indicated that what you see
9 there is advance growth pretty well. Most of what you
10 you see there is advance growth regeneration.

11 Q. All right. Now, when you say what
12 you see there is advance growth regeneration, what do
13 you mean by that?

14 A. I mean that that is the layerings
15 that were there at the time of the harvest and they are
16 all connected.

17 Q. All right. So most of -- and this
18 picture was taken how many years after harvest?

19 A. It was taken in 1989 and the harvest
20 was in 1979, so roughly 10 years.

21 Q. Roughly 10 years. So to be clear
22 then, what we see in this photograph in fact is what
23 has grown from trees which were on the site when you
24 harvested but which you left there, were able to
25 protect, I mean not damage them, at the time of

1 harvest?

2 A. That's correct.

3 Q. And how large a cut-over was that?

4 What was the -- if you could, you can define an outside
5 parameter, if that's possible?

6 A. It was 60 hectares.

7 Q. 60?

8 A. 60.

9 Q. And is this particular method used
10 when the cut-overs -- does this particular method
11 result in cut-overs of larger than 60 hectares?

12 A. Are we talking about harvesting with
13 the purpose of leaving advance growth?

14 Q. Yes.

15 A. Yes, that is the technique we are
16 using now, so we have results up to 400 hectares,
17 slightly less than 400 hectares.

18 Q. And would the results be similar on
19 those sites where you would have good regeneration 9 or
20 10 years later as a result of the advance growth?

21 A. Yes, that is what I am indicating,
22 that the areas we have assessed, the success is above
23 the minimum stocking for those areas that were
24 assessed.

25 Q. Now, am I correct, Mr. Gemmell, that

1 that area when it was cut, leaving regeneration --
2 leaving trees all over the site which in fact we see
3 there 8, 9 or 10 years later, that that area would be
4 reported as a clearcut?

5 A. Yes, that's correct.

6 Q. So that -- but would you agree with
7 me, Mr. Gemmell, that the area, that 60-hectare block
8 in that photograph was not cut clear in the sense that
9 all the trees were cut?

10 A. Yes. I would like to emphasize it
11 was cut carefully.

12 Q. All right. Now, in the clearcut --
13 pardon me, where you had a 400-hectare area which was
14 cut carefully using this method, I assume that that as
15 well would be reported as a clearcut; is that correct?

16 A. That's correct.

17 Q. But again, it would not be cut clear
18 by any stretch of the imagination?

19 A. Cut with the purpose or one of the
20 purposes of maintaining the advance growth, that's
21 correct.

22 Q. Would you agree with me, Mr. Gemmell,
23 that if people -- all people in this province are
24 concerned about renewal that it is important that they
25 understand that clearcuts do not mean necessarily that

1 an area has been cut clear of trees?

2 A. Yes, I certainly agree with that.

3 Q. It's my perception -- well, forget
4 about my perception.

5 MR. MARTEL: Could I ask a question then?

6 MR. FREIDIN: Yes.

7 MR. MARTEL: What did you do -- when you
8 cut the 400, what do you do in terms of the moose and
9 other -- that has to be taken into consideration?

10 MR. GEMMELL: The moose?

11 MR. MARTEL: Yes.

12 MR. GEMMELL: In these cases we are
13 talking lowland black spruce--

14 MR. MARTEL: Yes.

15 MR. GEMMELL: --sites. I am not a
16 biologist or --

17 MR. MARTEL: No.

18 MR. GEMMELL: But not particularly prime
19 site for the moose to habitate.

20 MR. MARTEL: I guess what I am asking,
21 how do you apply those guidelines though? If you cut
22 400 hectares, you have to take into consideration other
23 guidelines.

24 MR. GEMMELL: Absolutely.

25 MR. MARTEL: One being moose.

1 MR. GEMMELL: Absolutely, and the
2 guidelines are adhered to. When I say 400 hectares,
3 that is on those spruce sites. There are at the same
4 time - or one of the comments was moose motels and
5 whatever else is required to maintain the moose
6 habitat - are part of the guidelines and they are put
7 into the plan system.

8 MR. FREIDIN: Q. So in that
9 hypothetical, if in fact you had a moose corridor or a
10 moose hotel within that 400-hectare area, you would
11 have not only after the harvest advance growth, you
12 would have -- that you left there to regenerate for the
13 next stand, you would also have areas which you didn't
14 even harvest because you left them there for a
15 corridor?

16 MR. GEMMELL: A. Corridors for moose.
17 There is also in those black spruce sites, when we say
18 400 acres, there could very well be - and I showed it
19 in some of the slides in the middle - islands of spruce
20 that are left because they are unmerchantable.

21 Q. So will you agree with me that it's
22 important that people who are concerned about
23 regeneration and people who make submissions to various
24 boards about regeneration should understand that areas
25 which are clearcut are not necessarily cut clear?

1 A. Yes, I think that would be a very
2 good objective.

3 Q. Let's look at Exhibit 1105 which is
4 the photograph from the Flowers report. Looking at the
5 top photograph which is the reproduction I understand
6 of photograph 21 from the Flowers report, would you
7 agree with me, Mr. Gemmell, that that is a clearcut
8 which one could say has been pretty well cut clear?

9 A. It looks well cut.

10 Q. It is not a lowland black spruce
11 area, rather it is a jack pine -- it was a jack pine
12 stand prior to its harvesting; is that correct?

13 A. That's correct, although I have never
14 been there I take the word of Mr. Ferguson.

15 Q. Right. In fact my note says I am
16 supposed to go to Mr. Ferguson for this question. So
17 let me go over to you, Mr. Ferguson. So far do you
18 agree with what Mr. Gemmell -- his answers to me on
19 that photograph?

20 MR. FERGUSON: A. Yes, definitely. It's
21 certainly what I would call cut clear with the
22 exception of a few residual poplar there in the centre
23 of the picture, but essentially cut clear, yes.

24 Q. And so the evidence, as I understand
25 it from the photograph below -- well, first of all, I

1 understand that that area that was cut clear
2 regenerated to the photograph which is below; is that
3 correct?

4 A. That's correct, yes.

5 Q. I understand your evidence that it is
6 a very acceptable stand of jack pine at the present
7 time?

8 A. That is also correct.

9 Q. That that stand regenerated through
10 both natural and artificial means?

11 A. That's correct.

12 Q. So even in the case of a clearcut
13 which is cut clear, it would be an improper assumption
14 or suggestion that because an area has been cut clear
15 it is not going to regenerate into a very good stand of
16 timber?

17 A. I am sorry, I didn't quite catch that
18 last sentence there.

19 Q. One of those long ones. It would be
20 an improper assumption for someone to say just because
21 an area is cut clear it's not going to regenerate to a
22 good stand of timber.

23 A. Most definitely yes.

24 Q. That photograph is a perfect example
25 that that is an improper assumption or proposition to

1 make?

2 A. Yes, I agree with that. If I might
3 also add, for Mr. Martel's benefit, the cut-over in the
4 upper photo dates back to the mid to late 60s prior to
5 the establishment of the guidelines as we know them
6 today. Such a cut-over would not extend to that size
7 under our current guidelines.

8 Q. Now, while we are talking about jack
9 pine, I have some questions I think for various
10 witnesses, and I am not sure whether I am going to the
11 right ones or not, and if I'm not you advise me.

12 Mr. Nicks, I am not sure whether it was
13 you or Mr. Waddell. You were asked by Ms. Cronk near
14 the end of your examination-in-chief in relation to
15 jack pine whether there was any silvicultural basis
16 that harvesting be limited to clearcuts of a hundred
17 hectares or less, and I think it was you, Mr. Nicks,
18 and you said there was no basis for that.

19 MR. NICKS: A. Not in my experience.

20 Q. Mr. Waddell, I think you said there
21 was no biological reason to restrict the size of
22 clearcuts for jack pine?

23 MR. WADDELL: A. That was my evidence.

24 Q. And again, the Flowers report is a
25 perfect example that substantiates the answers you

1 gave, I think.

2 A. Yes.

3 Q. Do you agree, Mr. Nicks?

4 A. Excuse me.

5 MR. NICKS: Substantiates?

6 MR. WADDELL: A. I think I spoke too
7 quickly. You said the Flowers report?

8 Q. No, no, the Flowers photograph, what
9 happened there is a perfect example --

10 A. Yes, we did use that as an example.

11 Q. Now, Mr. Waddell, unfortunately I
12 forgot to -- one moment, please.

13 Again in relation to jack pine, Mr.
14 Ferguson, you gave some evidence about black spruce
15 about it being a prolific seeder?

16 MR. FERGUSON: A. Yes, I believe so.

17 Q. When you say that, what do you mean?

18 A. Black spruce from standing seed
19 source will continue to deposit seed onto cut-overs for
20 an extended period of time, basically as long as the
21 trees are standing.

22 Q. All right. And, Mr. Nicks, am I
23 correct that jack pine is not a prolific seeder, in
24 fact it's not a seeder at all from standing timber?

25 MR. NICKS: A. Definitely correct, it

1 requires intense heat in order to open the cones and
2 the only way they can be open in the standing condition
3 is through a fire.

4 Q. So am I correct, therefore, that in
5 relation to jack pine that you can't block cut it or
6 strip cut it and rely on the seed from the uncut stand
7 adjacent to the cut-over to provide seed?

8 A. You are absolutely correct.

9 Q. Now, you indicated that seed will
10 only be released from the standing timber if a fire
11 goes through.

12 I understand as well that through
13 harvesting that in some situations if you leave the
14 scattered -- the slash on the site and you leave the
15 cones scattered, on some sites those cones will open
16 just because of the heat at the forest floor?

17 A. That's correct, yes.

18 Q. Would you agree, however, that that
19 particular method of natural regeneration, scattering
20 jack pine cones and relying on the cones to open
21 through heat produced at the forest floor, doesn't work
22 on all jack pine sites?

23 A. That has certainly been my
24 experience, because one of the other essential
25 conditions for regeneration to occur, Madam Chair, Mr.

1 Martel, is that there be receptive seedbed at the same
2 time in the form of exposed mineral soil or a
3 humus/mineral soil mixture. So in that respect
4 particularly it's an reliable treatment.

5 Q. I think, Mr. Waddell, you referred --
6 am I correct that it's your understanding that the jack
7 pine silvicultural guide in fact indicates that in
8 northeastern and the northern region that any type of
9 natural regeneration for jack pine has been
10 unsuccessful?

11 MR. WADDELL: A. Yes, I referred to that
12 silvicultural guideline for jack pine.

13 Q. So it would be inappropriate -- I
14 take it in the view of you two gentlemen, that it would
15 be inappropriate that there be some rule that you
16 naturally regenerate jack pine by using strip or block
17 cuts because that is just silviculturally impossible;
18 is that right?

19 A. It would be a disaster for the
20 renewal of jack pine.

21 Q. And that you can't have a rule that
22 says: Well, just scatter the cones all over the place
23 and rely on the cones opening due to the heat of the
24 forest floor because that doesn't work on all sites?

25 A. Very ify.

1 Q. Do you agree Mr. Nicks?

2 MR. NICKS: A. Yes, particularly if
3 there is no site preparation involved beforehand.

4 Q. Okay.

5 Now, Mr. Gemmell, if I might just ask a
6 few questions, I want to stick with the subject matter
7 of natural regeneration. You made a comment that, and
8 I am quoting you I hope:

9 "There are lowland sites where normally
10 there is no site prep and we still rely
11 on natural regeneration."

12 MR. GEMMELL: A. That's correct.

13 Q. Am I correct, Mr. Gemmell, that there
14 can be situations even on lowland black spruce areas
15 where you will want to assist advance regeneration
16 through planting or seeding?

17 A. Yes, there are situations and I guess
18 you have to look at the whole situation from upland to
19 lowlands and at the very bottom, poorer sites. I would
20 say we wouldn't want to assist the very poor sites, but
21 in the middle there is tradeoffs where you could apply
22 another technique or a partial technique such as
23 seeding.

24 Q. And that decision as to where you
25 were on the continuum would have to be based on the

1 decision or the judgment of the forester?

2 A. Absolutely.

3 Q. So would you agree with me,
4 therefore, that if someone was an advocate of natural
5 regeneration that it would be unreasonable to have a
6 rule that on lowland black spruce areas that they must
7 be regenerated naturally through any particular method,
8 including the advance growth method?

9 A. I think the person has to make a
10 judgment based on the conditions.

11 Q. And -- sorry.

12 A. Before and after the cut.

13 Q. Right. And a rule that said it had
14 to be natural through advance regeneration, for
15 example, would be an inappropriate fettering of the
16 forester's discretion?

17 A. It would be very inappropriate if you
18 made a rule like that and found after the harvest you
19 had no advance growth there.

20 Q. Okay. Mr. Ferguson, in relation to
21 the English River Forest you gave some evidence in
22 relation to black spruce and you said, and I quote:

23 "Because of the nature of black spruce on
24 that forest usually stands are small and
25 irregular and, therefore, very difficult

1 to use strips."

2 Do you recall giving that evidence?

3 MR. FERGUSON: A. Yes, I do.

4 Q. I think you indicated that as a
5 result of that situation, that on the English River
6 Forest you would use seed tree plots when you wanted to
7 use natural regeneration in those situations?

8 A. Yes, we would use seed tree plots and
9 we would also make use of seed sources on the periphery
10 of some of the cut areas, perhaps in the form of
11 immature spruce that was adjacent to the site, yes.

12 Q. The point I would like to see -- have
13 you agree with, Mr. Ferguson, is that even on sites
14 where the soil conditions and the silvics of the
15 species will create a new stand of black spruce, that
16 it might be inappropriate because the terrain and
17 configuration of the cut is inappropriate for strips?

18 A. Yes, I would agree with that.

19 Q. All right. Mr. Nicks, going back to
20 some evidence that you gave at the end of your
21 evidence-in-chief. Ms. Cronk asked you some questions
22 about white spruce and you indicated to her that there
23 was no silvicultural basis that white spruce only be
24 harvested using seed tree methods or strip cuts.

25 You then explained how in fact you dealt

1 with white spruce on your limits. Do you recall that
2 line of questioning?

3 MR. NICKS: A. Yes, I do, Mr. Freidin.

4 Q. And you described the way you did it
5 on the Upper and Lower Spanish. Would you advocate
6 that the way you do it is the way that it should be
7 done everywhere and that the way you do it should in
8 fact become a rule?

9 A. Just one minor correction, sir, it
10 was the Pineland Forest that I was referring to.

11 Q. All right, sorry.

12 A. But that won't affect my answer. No,
13 I don't think that there is any one ideal way to
14 regenerate white spruce, but certainly the so-called
15 natural methods that were suggested to me are far less
16 reliable than the planting option.

17 But again, there may be some situations
18 where stock is in short supply, for example, or the
19 site quality cannot justify planting where in a seed
20 year that coincides with the harvest of that area seed
21 tree cutting might be the best course of action.

22 Q. Okay. And would your evidence be the
23 same in relation to your evidence as to how you dealt
24 with white pine; that is, that you wouldn't advocate
25 that the way you do it is appropriate everywhere and it

1 should become a rule?

2 A. Yes, absolutely. As I described,
3 uniform shelterwood which was the method posed to me as
4 a panacea, certainly is not -- depends totally on the
5 basal area; in other words, the stand composition
6 before the harvest, and the methods that we adopt are
7 suitable to our situation because of the lower basal
8 area of white pine that we encounter, yes.

9 Q. Mr. Squires, there were a series of
10 questions by Forests for Tomorrow regarding the
11 proportion of the renewal program which was natural and
12 artificial, I think Ms. Swenarchuk went around the
13 table, and I just want to clarify some evidence you
14 gave.

15 You said that the percentage of natural
16 which is block or strip cut is in the vicinity of 500
17 hectares over a five-year period, and then the question
18 was: What percentage of the land base is that, and
19 your answer was one to two per cent.

20 Now, I just wanted to be clear in my
21 mind. Was the one to two per cent of the land base
22 when you made that comment, was it one to two per cent
23 of the land base of the FMA, or one to two per cent of
24 the area harvested in the five-year period?

25 MR. SQUIRES: A. One to two per cent of

1 the area harvested in the five-year period.

2 Q. Thank you. Now, this is a question
3 for all of you. I am going to ask you, after I relate
4 some of the evidence, as to whether in fact you agree
5 with my understanding of the evidence.

6 At the end of all the questioning
7 regarding this, how much was artificial, how much was
8 renewal by Ms. Swenarchuk she posed a question -
9 actually I think it was to Mr. Nicks - and she said in
10 her question: Different companies do seem to work with
11 different definitions of natural regeneration.

12 She asked you all, what do you mean by
13 it, was site prep included in natural or was it
14 artificial. She said, different companies do seem to
15 work with different definitions of natural
16 regeneration.

17 Nobody said she was right, no one said
18 she was wrong, but as I heard the evidence, that you
19 all use the same definition of natural regeneration
20 although your evidence certainly indicated that you
21 employed different methods of natural regeneration on
22 your particular management units.

23 Now, does anybody disagree or does
24 anybody believe that I have misunderstood your
25 evidence?

1 MR. NICKS: A. Mr. Freidin, I believe I
2 was the one that gave the definition in that I
3 concurred with the Ministry's previous definition that
4 artificial regeneration involves the bringing on to
5 site of reproductive materials from off site; whereas
6 natural involves the use of reproductive material
7 already on the site.

8 And so I think that that definition
9 certainly is that accepted by the OFIA, and you are
10 quite right, the natural renewal methods do vary
11 significantly.

12 Q. All right.

13 A. I clarified that point.

14 Q. Everyone on the panel agrees with
15 that comment?

16 MR. FERGUSON: A. Agreed.

17 MR. GEMMELL: A. Agreed.

18 MR. MURRAY: A. Agreed.

19 MR. SQUIRES: A. Agreed.

20 MR. WADDELL: A. Agreed.

21 MR. FREIDIN: Let the record indicate
22 that everyone agrees. Thank you, Mr. Nicks.

23 Q. Mr. Nicks, you described a certain
24 situation where an area could be declared untreatable
25 if it did not meet stocking standards at year 10. Do

1 you recall that evidence?

2 MR. NICKS: A. Yes, I do.

3 Q. Now, where an area does not meet the
4 stocking standards at year 10, is the area devoid of
5 vegetation?

6 A. I would find that highly unlikely.
7 It would simply be somewhere between zero and 40 per
8 cent stocking. I would not care to hazard a guess in
9 terms of what that figure might be, but it certainly
10 would have trees on it.

11 Q. Okay. And would you agree that the
12 area, although it might not meet the stocking standards
13 at that particular point in time, could still have
14 commercial tree species on it?

15 A. Well, certainly, albeit at a stocking
16 level below 40 per cent but, as Mr. Squires indicated
17 in his evidence, that site may even produce commercial
18 timber that is worthwhile to harvest at some stage in
19 the future with a reasonable volume to it.

20 Q. Right. Some of the trees on that may
21 be preferred commercial, some may be less preferred?

22 A. Yes, there could be a combination. I
23 can think of an example of shallow upland sites which
24 are physically difficult to treat but at least in one
25 area of our FMA areas there is a substantial regrowth

1 of black spruce which is adapted somewhat to shallow
2 upland sites, and I would expect that someone some day
3 may take a commercial cut off that particular area.

4 Q. Now, you indicated that it may not be
5 stocked right at that 10 years, but that in the future
6 it might very well provide a very good or a viable
7 commercial crop that would be harvested; is that right?

8 A. That's right. In fact the stocking
9 may continue to rise after 10 years and that these
10 stands will get picked up in the FRI inventory at some
11 time, perhaps at age 20.

12 Q. All right. Thank you. You indicated
13 that there was a definition of untreatable in the FMA
14 agreements?

15 A. In the groundrules.

16 Q. Right.

17 A. Yes.

18 Q. Do you have a copy of the Exhibit 513
19 which is the FMA Agreements for the Pineland Timber
20 Company Limited and has the associated groundrules
21 attached?

22 A. Yes, I do, Mr. Freidin.

23 MS. CRONK: Could I just have a minute,
24 please.

25 MR. FREIDIN: Q. Do you have that?

1 MR. NICKS: A. Yes, I do.

2 Q. Okay. Could you turn --

3 MS. CRONK: Mr. Martel, I have another
4 copy. Would that be of assistance to you?

5 MR. MARTIN: Yes, it would be.

6 MS. CRONK: (handed)

7 MR. MARTEL: Thank you.

8 MS. CRONK: You're welcome.

9 MR. FREIDIN: Q. Turn to page 12 of the
10 groundrules.

11 Madam Chair, Mr. Martel, you will find
12 that it goes from 1 to 18 or 19 and then it starts at 1
13 again. It's the back part, so sort of the second group
14 of numbered pages.

15 MR. HANNA: Madam Chair, I would just
16 like to put on the record, I wasn't given any notice
17 that Mr. Freidin was going to call this exhibit and I
18 haven't it with me. So I just wish that should be on
19 the record.

20 MR. FREIDIN: Very short, and I announced
21 it to everyone who was here yesterday.

22 MADAM CHAIR: Perhaps you could share a
23 copy with Mr. Sutterfield. Do you have it?

24 MR. SUTTERFIELD: What exhibit?

25 MR. FREIDIN: Exhibit 513, Mr. -

1 Sutterfield.

2 Q. Page 12 it has the heading Third
3 Party Operations on it, do you have the same page?

4 MR. NICKS: A. Yes, I do.

5 Q. And the definition of nontreatable I
6 believe is in the last three lines of the paragraph
7 above. Is that correct?

8 A. No, I think I find that on page 5,
9 Mr. Freidin, the second last paragraph under 6.3.

10 Q. Page 5?

11 A. Yes.

12 Q. All right. And where are we?

13 A. Paragraph or Section 6.3.

14 Q. Yes. Where do we go?

15 A. To the second half of that first
16 paragraph.

17 Q. Okay. Where it says:

18 "A non-treatable area is defined as an
19 area where extremes in topography,
20 shallowness of soils, excessive rock,
21 poor drainage or inaccessibility makes it
22 uneconomical or impractical to treat."

23 MR. MARTEL: Is that the first or second
24 page 5?

25 MR. FREIDIN: That is the first page 5 --

1 pardon me, the second page 5.

2 Q. That is the part you are referring
3 to?

4 MR. NICKS: A. That's right, it's the
5 groundrules.

6 Q. Right. It's actually the same as the
7 one on page 12, but that's okay, that is the wording
8 that I wanted to direct you to.

9 Do you have that?

10 A. Yeah, okay. On page 12?

11 MR. FREIDIN: Do you have that, Mr.
12 Martel?

13 Q. Now, I just want to make a point, if
14 you agree with me, Mr. Nicks - and I think you will on
15 this one - that that definition does not say that
16 non-treatable is an area where you cannot expect the
17 area to regenerate without treatment. It doesn't say
18 that at all; does it?

19 MR. NICKS: A. No, it doesn't.

20 Q. It just says that it would be
21 uneconomical or impractical to treat, that is the
22 definition?

23 A. That's the implication of the
24 definition, that is for sure. Well, in fact you're
25 right, it's in the statement, impractical to treat.

1 Q. Thank you.

2 MR. FREIDIN: Madam Chair, I am not going
3 to finish today, I think I am going to be probably an
4 hour, probably closer to two hours more and it's been a
5 long day.

6 I also have personal reasons that I would
7 like to get away a little earlier today, if possible.
8 I am just wondering whether we could break. I was
9 going to get into another area which I am sure will
10 take me half an hour.

11 I know how you hate to break early, but
12 it was my suggestion.

13 MADAM CHAIR: Unless any of the parties
14 object, I think we could adjourn for the day. I think
15 the witnesses have had a long day.

16 Ms. Cronk?

17 MS. CRONK: Yes, Madam Chair, two things.
18 I just --

19 MADAM CHAIR: I am sorry, Ms. Cronk, I
20 was just given the phone number for our new location at
21 151 Bloor Street West, that is 965-1845.

22 MS. CRONK: And I just wanted to confirm
23 a start time for Monday?

24 MADAM CHAIR: 8:30.

25 MS. CRONK: 8:30.

1 MADAM CHAIR: Yes. And we are going to
2 151 Bloor Street West which is the Britannica Building,
3 it is on the 10th Floor, and which is the Ontario
4 Highway Transport Commission.

5 MS. CRONK: Thank you. There was one
6 other matter, Madam Chair. The normal rule, as you
7 know of course, is that there is to be no communication
8 by counsel with their own clients or witnesses while
9 they are in the course of cross-examination.

10 I am confronted with a practical
11 difficulty in that I now anticipate that the tending
12 panel will commence on Monday immediately after the
13 renewal, and Mr. Ferguson is a member of the tending
14 panel, and I wish to meet with the tending witnesses
15 between now and Monday for the purposes of making sure
16 that their evidence is ready to go.

17 I would like permission from the Board,
18 on my undertaking that there will obviously be no
19 discussion whatsoever concerning the renewal panel or
20 the renewal evidence, for Mr. Ferguson to participate
21 in the meeting with the other panel members that I will
22 be holding regarding the tending evidence that you are
23 to hear Monday afternoon.

24 MADAM CHAIR: Do you think we will start
25 Panel 7 on Monday, Ms. Cronk?

1 MR. MARTEL: Mr. Freidin says two, Ms.
2 Seaborn is three?

3 MS. SEABORN: Two to three hours, Mr.
4 Martel was my estimate. At this point I don't
5 anticipate changing that estimate. It may change
6 Monday morning subject to Mr. Freidin's
7 cross-examination.

8 MADAM CHAIR: How long will you be in
9 re-examination, Ms. Cronk?

10 MS. CRONK: It's difficult for me to say
11 at this point, but at this moment not very long. I
12 think there is a chance that late in the day Monday
13 afternoon. Even if that is not the case, however, Mr.
14 Martel, I suspect I might do a little bit of work
15 between now and then, and I would like it to be with
16 the tending people, if that would be possible.

17 MADAM CHAIR: Is there any objection from
18 any parties?

19 MR. FREIDIN: Not from me.

20 MS. SEABORN: No objection.

21 MADAM CHAIR: All right, fine.

22 MS. CRONK: Thank you.

23 MADAM CHAIR: We will see you Monday
24 morning then at 8:30. Thank you.

25 One other thing. For the time being we

1 will have a secretary working with us at 151 Bloor
2 Street, her name is Trudy Taylor.

3
4 ---Whereupon the hearing adjourned at 4:45 p.m., to be
5 reconvened to the Offices of the Ontario Highway
6 Transport Commission, Britannica Building, 151 Bloor
7 Street West, 10th Floor, Toronto, Ontario, on
8 Monday, May 14th, 1990, commencing at 8:30 a.m.

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